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THE SOLICITORS' JOURNAL.

LONDON, JUNE 6, 1857.

FRAUDS BY TRUSTEES AND DIRECTORS.

The Bill of the Attorney-General, to make better provision for the punishment of frauds committed by trustees, bankers, and other persons intrusted with property, is one of the boldest, and, we think, also one of the most masterly, of modern attempts at the improvement of the criminal law. In every respect it is a great innovation on existing precedents. It proposes to enlarge the operation of the law, not by merely including within its grasp a special offence by this or that particular description of offenders, but by embracing in large and apt words the whole body of criminals whose immunity has hitherto been the standing reproach of our jurisprudence. The old maxim, that a person in a fiduciary position could not be by breach of trust commit a crime, will, if this Bill should pass, be utterly and at once swept away. If a man appropriates money intrusted to his care, he will, by the present law, incur a debt, and may be compelled to make restitution. By Sir Richard Bethell's Bill he will be guilty of a misdemeanor, punishable with penal servitude for seven years, or with such measure of fine or imprisonment, or both, as the Court may see fit to award. Receivers of misappropriated trust property, with knowledge of the fraud, will be subject to the same condemnation; and every fraudulent appropriation by bankers, merchants, brokers, attorneys, or bailees, of fiduciary property, as well as every fraudulent sale under a power of attorney, will subject the offender to the penalties of the Act. Besides these large general clauses, an attempt is made to reach the especial devices by which such swindles as the Royal British Bank are commonly worked. As a general rule, the acts of the very worst directors, unless they are also the very clumsiest, are just outside of the definition of fraudulent appropriation. Even Mr. Humphrey Brown could scarcely be said to have appropriated the moneys of the bank in the strict sense in which the term must be interpreted in a penal statute. But he and a good many others would have been hit by the clauses of this Bill, which make it a criminal offence to be privy to the falsification of the books of a company, or wilfully to concur in any materially false written statement, with intent to defraud shareholders, or to induce any person to become a shareholder, or to make an advance to the company. Fictitious dividends and carefully cooked balance-sheets have been the great engines of fraud in the management of joint-stock companies. All modes of auditing have proved ineffectual to secure *bona fides* in these important particulars when directors have been minded to cheat their constituents and the public. One board has surpassed another in roguery, until general discredit was thrown on the whole system, and the most upright managers of companies could scarcely escape the suspicion which was engendered. The Bill strikes at the root of the evil, and, by making the machinery of mis-

representation itself the crime, it will, we believe, effectually check the growth of dishonesty on the part of directors and officers. He would be a very ingenious and a very bold man who should concoct and carry out a systematic scheme of joint-stock fraud in the face of such enactments as are now proposed; and though every Act is said to have a gap for a coach-and-six, we confess ourselves unable to guess where directors will find the practicable breach. The extension of the definition of trust property, so as to include not only the original subject of a trust, but all property into which it may have been converted, and anything acquired by the proceeds, seems equally to shut out fraudulent trustees from all chance of escape.

It is impossible not to see that the vigorous sweep of the Bill is due to the unusually large generality of the language employed, and it deserves to be carefully and anxiously considered, whether, in aiming at energetic action, the Attorney-General may not have endangered some who would not be properly included in the class of criminal trustees. The first clause, which relates to offences by trustees in general, is sufficient to embrace almost every breach of trust for which the Court of Chancery would order restitution, if committed in violation of good faith and with intent to defraud; and though of course there is no hardship in punishing a man who uses his trust with a fraudulent intention, it would be a rather nervous position for any trustee who had made an improper investment, or committed some other trifling irregularity, to feel that his only security against a prison consisted in satisfying a jury of the purity of his intentions. It is almost impossible to frame a criminal statute without making the intent enter into the essence of the definition of the crime; and yet this is just the sort of thing on which twelve jurymen are very apt to err, though generally it must be owned on the side of leniency. Still there must always be so many cases in which trusts will be found not to have been quite accurately carried out, that there would, if the clause stood alone, be some possibility of half the trustees in the kingdom, who might happen to fall out with their *cestui que trust*, being brought to the bar of the Old Bailey. Take the case of a trustee keeping money in his hands longer than he ought to do, and not separating it from his general account. The Court of Chancery is strict enough in such cases, by charging interest or compelling the restoration of the profits made by the money. But, under the first clause of the proposed statute, it might be submitted to a jury in every such instance, whether there was not an intent to defraud; and if found in the affirmative, a trustee who had been rather careless than criminal would be liable to the punishment of a convict. The possibility of such a result is, we think, sufficient justification for the provision that no prosecution shall be commenced under that clause without the sanction of a Judge or of the Attorney-General. As a general rule, we do not like the plan of giving the functions of a grand jury to the law officers or the judges; but this is an exceptional case, and we do not well see how honest trustees could otherwise have been effectually protected from malicious prosecutions. As the Bill stands, there is no doubt that all who have not acted fraudulently will be perfectly safe, and the judges will certainly ignore every indictment founded on flimsy pretexts. It is material to observe that the clauses against directors and members of joint-stock companies are not within this provision, but the offences described are too definite to need it. The 2nd clause, which makes it an offence for bankers, merchants, brokers, attorneys, and agents, in violation of good faith, and with intent to defraud, to employ trust-property for their own use, is not apparently within the scope of the special protection, unless, indeed, the phrase in the 12th section, "a prosecution for any offence included in the 1st section," be intended to embrace all prosecutions for offences

which might be classed under clause 1, although the actual proceedings may be taken under clause 2. This is a point which ought to be made more clear, and it will deserve consideration whether the safeguard ought not to extend to the 2nd as well as to the 1st section of the statute. These matters will doubtless be fully considered in committee; but, subject to a few such questions of detail, we have no hesitation in pronouncing the Bill the most able project of criminal law reform which has been brought forward for many a year.

ATTORNEY'S LIABILITY FOR NEGLIGENCE.

It will be remembered, that, in our last impression, we examined into the chief of those reported cases, in which the attorney suing on his bill has been met by the objection that the services charged for were altogether useless. In further pursuance of the subject, it now becomes necessary to investigate those cases in which the attorney himself is sued by his client for negligence.

The doctrine, that, in order to ground such an action, there must appear to have been gross negligence or ignorance, was first satisfactorily laid down by Lord Mansfield in the case of *Pitt v. Yalden* (A. D. 1767, 4 Burr. 2060). And the following observations made by that most accomplished lawyer, contain much that is of moment with regard to the present question.

"Attorneys ought to be protected when they act to the best of their skill and knowledge. Every man is liable to error, and I should be very sorry it should be taken for granted that an attorney is answerable for every error or mistake, and to be punished for it by being charged with the debt which he was employed to recover for his client. An attorney ought not to be liable in cases of reasonable doubt. The attorneys were country attorneys, and might not, and probably did not, know that this point was settled here above."

The case of *Reece v. Rigny* (A. D. 1821, 4 Barn. & Ald. 202), does not appear inconsistent with this doctrine; though we should have thought the negligence had been condoned by the plaintiff himself. The defendant had been retained to sue C. for a debt. In support of that case F. was a material witness. This witness the plaintiff had undertaken to have in court at the proper time; and had directed the defendant not to subpoena him. On the day of trial, the plaintiff's foreman told the defendant that F. was ready to be examined in an adjoining coffee-house. The defendant, on this, without inquiring further, but relying on the plaintiff's previous assurance, suffered the cause to be called on. F. was not forthcoming, and the plaintiff was nonsuited. It was left to the jury to say whether, under the circumstances, the defendant had used reasonable care and diligence in not previously ascertaining if F. had arrived, and if he had not, in not withdrawing the record. The jury found for the plaintiff, and the Court refused to disturb the verdict. So, gross negligence appears to have been committed in *Swannell v. Ellis* (A. D. 1823, 1 Bing. 347), where the defendant had been employed to bring an ejectment against a tenant of the plaintiff, for breach of a covenant to repair. The question of repair had been referred at *Nisi Prius* to a surveyor, and the defendant neglected to attend the reference; in consequence of which the plaintiff had to pay costs in the ejectment, to the amount of £60, and also sold the premises for £100 less than he would otherwise have done. The plaintiff obtained a verdict for £160. This verdict the Court refused to set aside; although it was urged that the £60 would have fallen on the plaintiff at all events, and that there was nothing to show, that, had the reference been proceeded with, any repairs would have been found to be necessary, or any award made in favour of the plaintiff. But *Park, J.*, said, the question of repairs had been referred to a surveyor, who was prevented from ascertaining them by the negligence of the defendants, and "that the jury were not confined to the £100 loss incurred on the sale of the premises." With submission to Mr. Justice *Park*, we think that, in this case, the damages ought to have been reduced.

Ireson v. Pearman (A. D. 1825, 3 B. & Cr. 799) was another action for negligence. It appeared that the defendant had been employed by a purchaser to inspect the title to an estate; and that he laid before counsel an abstract stating that one T. M., under whom the vendor claimed, was seised in fee of the premises, and omitted to set out certain deeds by which it appeared that he was not so seised. This was held to be negligence sufficient to support the action; "for, although it may not be part of the duty of an attorney to know the legal operation of conveyances, yet it is his duty not to draw wrong conclusions from the deeds

laid before him, but to state the deeds to the counsel whom he consults; or he must draw conclusions at his peril."

It was on the principle laid down by Lord Mansfield in *Pitt v. Yalden*, that *Laidler v. Elliott* (A. D. 1825, 3 B. & Cr. 788) was decided in favour of the attorney. Here the negligence relied on, was the failing to charge one H. in execution within the proper time, according to the course of the Courts; in consequence of which he was superseded, and the plaintiff lost the benefit of his imprisonment. But the Court held the action was not maintainable, because it had been settled that there must be *crassa negligentia* to make an attorney liable; and that here the question, whether or no H. was supersedeable depended on the construction of a Rule of Court (H. T., 26 Geo. 3) which was of doubtful construction. Again, in one of the leading cases upon this subject, that of *Godefroy v. Dalton* (A. D. 1830, 6 Bing. 460), the same conclusion was arrived at; and some useful observations are made in the judgment of *Tindal, C. J.* The circumstances of this case were as follows:—The defendant had been employed by the plaintiff to conduct an action for negligence against one Jay (another attorney); and had, under the advice of counsel, produced the prothonotary's book, containing the minute of a certain judgment by default (the suffering of which was the negligence complained of), instead of the record or authenticated copy of the judgment itself. This was held not to be such negligence as would sustain the action. "It would be extremely difficult," said the Chief Justice, "to define the exact limit by which the skill and diligence which an attorney undertakes to furnish in the conduct of a cause is bounded; or to trace precisely the dividing line between that reasonable skill and diligence which appears to satisfy his undertaking, and that *crassa negligentia* or *lata culpa* mentioned in some of the cases, for which he is undoubtedly liable. The cases, however, appear to establish in general that he is liable for the consequences of ignorance or non-observance of the rules of practice of the Court; for the want of care in the preparation of the cause for trial, or of attendance thereon with his witnesses; and for the mismanagement of so much of the conduct of a cause as is usually and ordinarily allotted to his department of the profession. Whilst, on the other hand, he is not answerable for errors in judgment upon points of new occurrence, or of nice or doubtful construction, or such as are usually intrusted to men in the higher branch of the profession of the law."

As to the action mentioned in the preceding case, which Dalton had been employed to bring, it came before the Court the following year (*Godefroy v. Jay*, 7 Bing. 413), on a rule to reduce the damages; and it then appeared that the negligence complained of, was allowing judgment to go by default against Godefroy in an action on the case brought against him by one D.; in consequence of which, he had to pay about £37 to D. This judgment by default had been suffered by Jay, under the idea that it could be set aside at any time, owing to an irregularity in the proceedings. The jury found for Godefroy; and assessed the damages at £45; upon what principle of calculation does not appear. This verdict the Court refused to disturb.

Kemp v. Burt (A. D. 1833, 4 Barn. & Adol. 424), is another instance, in which the doctrine laid down by Lord Mansfield in *Pitt v. Yalden* was preserved in its integrity. The negligence relied on here was, that the defendant, being retained by the plaintiff to sue a surveyor of roads for trespass, commenced an action which he was advised by counsel to discontinue, because certain other parties should have been joined; and afterwards commenced another action in which the plaintiffs were nonsuited owing to the limitation of time prescribed in 3 Geo. 4, c. 126, under which the proceedings were taken. A special pleader had advised, that, in the case of the trespasses sued for, the limitation did not apply; and it was held that no actionable negligence had been committed.

On the other hand, *Stannard v. Ullithorne* (A. D. 1834, 10 Bing. 491), shows that an attorney undertakes that his client shall not enter into any covenant or stipulation that may expose him to a greater degree of responsibility than is ordinarily attached to the business in hand; or, at all events, that he does not do so till the consequences have been explained to him. The point decided in *Williams v. Gibbs* (A. D. 1836, 5 A. & E. 208, 2 Har. & W. 241), was, that it is negligence for an attorney to bring an action within a court of limited jurisdiction, knowing that the circumstances which gave the right of action arose out of such court's jurisdiction. In *Shilcock v. Passman* (A. D. 1836, 7 Car. & P. 289), the negligence relied upon was, that, the plaintiff being a prisoner in execution for twelve months for a debt not exceeding £20, and having retained the defendant to effect his discharge, proper

measures for that purpose had not been taken; and it appeared, that, owing to an omission on the part of the defendant to give notice and make application when he might have done so, the plaintiff was detained in prison longer than he would otherwise have been. These three cases seem to fall, properly, within Lord Mansfield's ruling, so as to make the attorney liable.

In *Purves v. Landell* (A.D. 1846, 12 Clark & F. 91), the principle above referred to was again enunciated by Lord Brougham, who said, that it was of the very essence of the action for negligence that there should be *gross ignorance*—that the man who had undertaken to perform the duty of an attorney or an apothecary (as the case might be) should have undertaken to discharge a duty professionally for which he was very ill qualified, or which he had so negligently discharged as to damnify his employer, or deprive him of the benefit which he had a right to expect from the service. And Lord Campbell (in the same case) said, "against the barrister, luckily, no action can be maintained, but against the attorney it may, if guilty of *gross negligence*, but not for a mistake merely. You can only expect from him that he will be honest and diligent. It would be utterly impossible that you could ever have a class of men, who would give a guarantee binding themselves, in giving legal advice and conducting suits of law, to be always in the right."

We now arrive at the case of *Hunter v. Caldwell*, (A.D. 1847, 10 Q. B. 69), which is peculiarly important, because it distinguishes the province of the judge from that of the jury in these actions. Here the negligence was, that the defendant did not properly file certain writs of summons which had been sued out against one H., so as to keep alive the action of the plaintiff against him. It was held that the question of negligence by not complying with the practice of the Court was a question of fact for the jury; but that it was proper to direct the jury positively as to the premises from which they were to draw their conclusion. The judge should inform the jury for what species or degree of negligence the attorney was answerable, and what duty was cast upon him in the case before them; and, having done this, was to leave them to say whether, considering all the circumstances and the evidence of practitioners, the attorney had performed his duty; and whether, if he had not, the neglect was actionable.

It is to the office thus thrown on the jury that (for our parts) we specially object in this species of action. A jury of tradesmen are quite incompetent to decide upon the question, whether actionable negligence has been proved. Still more are they without the means of assessing the damages, with any regard to justice. The Courts are, however, very unwilling to interfere with the amount they choose to give; and hence it is that there are so few cases in the books, from which we may collect the principle on which the damages should be assessed. Yet enough are reported to show the urgent need for some superintendence over a jury in this respect. Thus, in *Haavicks v. Harwood* (A.D. 1849, 4 Exch. 508), the attorney had failed to instruct counsel properly, and in time; in consequence of which the record had to be withdrawn when the cause was called on; and the jury gave £150 damages, though the loss which had been occasioned to the plaintiff was only £13, the expenses of his witnesses; and to this sum the damages were, of course, reduced by the Court. So also in *Parker v. Rolls* (A.D. 1854, 14 C. B. 691), in which an attorney had prepared a *parol* agreement to secure the payment of a weekly sum of five shillings in consideration of past cohabitation,—the jury gave a verdict for £70, which was afterwards reduced to £35. To these instances, we hope we shall be able to add that of *Van Toll v. Chapman*, if, indeed, the verdict is allowed to stand at all. But surely in this case, at all events, a new trial will be ordered. The same arguments which we have advanced in favour of Mr. Chapman in reference to the action brought by him, are here also to the point; while, again, there are excuses for his conduct which more especially apply to the action brought against him. For, granted that he cannot recover for what the result has shown to be useless, is there really any pretence for charging that *lata culpa*, that *crassa ignorantia*, which is necessary to ground substantive proceedings? When the action of *Van Toll v. Roberts* was pending, a few months only had elapsed since the passing of the Procedure Act of 1854. We believe that, at the time, no work had been published elucidatory of the radical changes effected in the general course of practice by that and the preceding Act of 1852, of greater pretensions than the ephemeral editions of the Acts themselves. Were these a sufficient guide to a practitioner in working a new mode of proceeding? Nay, he would find in the Common Law Procedure Act of 1852, an express enactment that nothing therein is to affect the provisions of 8 & 9 Will. 3, c. 11, as to suing upon bonds and obtaining a judgment for the

penalty as a security for damages in respect of future breaches; while, on the other hand, the class of actions chiefly aimed at in the 3rd section of the Procedure Act of 1854 are clearly not actions on bonds at all, but cases of opposing and complicated accounts. It is true, that if he had thoroughly looked into the matter, he might have discovered, that, though a bond to pay money by instalments may be sued upon under the statute of William, (*Willoughby v. Swinton*, 6 East. 550), an ordinary bond for payment of money at a certain time is not within the Act (*Smith v. Bond*, 10 Bing. 125). But is a mistake of this nature to be visited with a penalty of six or seven hundred pounds? Or rather, can it be said—arising, as it did, on the construction of a new Act—to be actionable ignorance at all? On the whole, we look forward with confidence to the result. An attentive study of the reported cases does not leave any great ground of dissatisfaction with the general principles enunciated by the Courts, after full argument in banc. Attorneys but share, it has been laid down fairly enough, the responsibilities which attach to surgeons; and, indeed, to all who profess to sell skilled labour. It is with the application of these principles in the crowded and excited arena of the *Nisi Prius* court, that we are chiefly disposed to quarrel. It is no disrespect to the judges to say that they are not always competent, in the hurry of the moment, to deal satisfactorily with the complications of facts which often arise in these cases.

Legal News.

The elaborate judgment of Mr. Commissioner Holroyd, in which he refused to recognise an order of Vice-Chancellor Kindersley, on the ground that it had been made by the judge's clerk and not by the judge himself, has been set aside by the Lords Justices with very little ceremony or hesitation. The order of the Vice-Chancellor, whether properly made or not, can only be got rid of by a rehearing before him, or by an appeal to the Lords Justices. This simple and obvious principle at once sweeps away the mountain of learned argument which the Commissioner had so laboriously accumulated. Of course, the question as to the propriety of the present mode of proceeding in the Judges' Chambers remains exactly where it was. It may be true that the clerk takes upon himself functions which suitors have a right to expect the judge in person to discharge. But we cannot see that Mr. Commissioner Holroyd is called upon to interfere to remove this any more than various other blemishes which may be discovered in our legal and social system. There are people who look to the press as able and ready to right every wrong, and think that a prompt and aptly worded appeal to one of our daily contemporaries is the most likely cure for all the ills of life; and one cannot help suspecting that some of the learned Commissioners in Bankruptcy are disposed to set up as rival practitioners in this line; and not only to extend their ordinary jurisdiction as widely as possible, but to attempt an interference which is really without precedent or excuse. The interior economy of the Chancery Judges' Chambers concerns Mr. Holroyd in his public capacity no more than the dowry of the Princess Royal; and it may be hoped that the summary overruling of his judgment by the Lords Justices may induce him to confine himself to that legitimate sphere in which his labours have proved so valuable.

The Whitsuntide holidays have suspended the progress of the various law-reform measures; but now we shall soon see the Lord Chancellor's two Bills before the House of Commons, and it will speedily be known whether that great achievement of erecting new courts of probate and divorce is really destined to illustrate the present session. Lord Brougham has reappeared in the House of Lords rather too late to take the part which properly belongs to him in the discussion of the measures which have been occupying the attention of the Peers. In the Commons, Mr. Malins has brought in a bill to enable married women to dispose of reversionary interests in personal estate; and his pro-

posals has the support of the Attorney-General. It will probably receive the approval of the profession and the acquiescence of the House of Commons; but whether it has sufficient force of merit to carry it through the House of Lords is by no means certain. That the law upon this subject is complicated and embarrassing we suppose nobody will deny; but if that were always sufficient reason for passing an Act to alter and amend the law, the task of the new Parliament would be a weighty one—so weighty, indeed, that the feeling would become unanimous to devolve upon some more suitable body functions which a popular Legislature is by no means well qualified to discharge. Another question of great difficulty has been lately raised by the case of *The Queen v. Bryan*, and if the interference of Parliament is to be invoked to mark more clearly the dividing line between a criminal false pretence and what we may, perhaps, venture to call “tradesmanlike falsehoods,” we will say that this is a legislative problem which demands the most skilful handling. The majority of the judges who decided this case in the Exchequer Chamber appeared to think that the law as laid down by them was as severe as a lax general morality would permit. The degree of license afforded by this exposition of the statute to what is called in some quarters “smartness” would seem to be dictated by the same principle as certain indulgences granted by the Mosaic law “because of the hardness of the hearts” of the people to whom its precepts were addressed.

In the Courts, one of the most noticeable events of the week has been the appearance of the Attorney-General on behalf of the Crown in the Queen's Bench. The occasion was probably well chosen, inasmuch as neither the judges nor any of the counsel most habituated to the court were likely to know more of the subject under argument than Sir Richard Bethell himself; and therefore he need have felt no fear of making any false step which could damage his splendid reputation. We dare say that the judgment of the Court when given in the case will be entirely satisfactory and exhaustive; but if so, the judges must supply from their own resources a good deal of elucidation of an obscure topic.

An action has been tried in the Queen's Bench this week on an attorney's bill, and some account of the case will be found in another column. The defence of negligence was successfully set up, and it certainly appears that the proceedings taken and charged for should not have been taken at all unless they were taken earlier. The amount in dispute in this instance was small, and there was a conflict of testimony upon the facts, so that probably it is not a case which the Court would be disposed to entertain further.

PETITION OF PROCTORS TO THE HOUSE OF LORDS.

The following petition was presented by Lord Malmesbury on the 28th ult.:

That two Bills are now pending in your Right Honourable House, intitled respectively “A Bill to amend the Law relating to Probates and Letters of Administration in England,” and “A Bill to amend the Law relating to Divorces and Matrimonial Causes in England.”

That, without offering any opinion upon these several measures, your petitioners earnestly desire to submit to the consideration of your Lordships that certain provisions in the aforesaid Bills would, if passed into law, be most injurious to their professional practice, and would be inconsistent with the justice and equity by which your Lordships are influenced in legislation.

That the office of Proctor is of great antiquity, having been recognised as early as the year 1236, and having been regulated by the Canons of 1603; and that the duties of those holding the said office have been expressly regulated by statute, and amongst other Acts, by the Acts 3 James 1, c. 5, and 53 Geo. 3, c. 127, of which the last mentioned made express provision for the protection of proctors, and confirmed and guaranteed them in the enjoyment of exclusive practice.

That, under these several regulations and Acts of Parliament,

your petitioners exercise the right of practice in the Ecclesiastical Courts of England, in which are transacted the larger portion of the business relating to the grants of probate of wills and letters of administration, and in which the larger portion of matrimonial causes have hitherto been heard and determined; a right of practice which the Parliament of England has handed down and guaranteed to your petitioners, for nearly seven centuries with exclusive rights and privileges.

That, to acquire their exclusive right of practice under the authority of the Acts of Parliament aforesaid, your petitioners have paid large sums of money on being articulated and admitted; have served under articles for seven years; and, at a further large expense and sacrifice, have become notaries public. That many of your petitioners have also paid large sums of money, or have laid themselves under heavy pecuniary obligations, for the purchase of their practices, or are under engagements to pay annuities to former practitioners or to the widows of deceased partners, or have made family arrangements dependent on the continuance of the present practice, and under the assurance of Acts of Parliament by which the same was guaranteed to them.

That the above-mentioned Bills now pending in your Right Honourable House would operate most injuriously, and in some instances will be utterly destructive of the professional practice of your petitioners, and may in many instances interfere with the aforementioned obligations and arrangements, thereby involving many other persons besides your petitioners in the difficulties and hardships which these measures may inflict, if passed into law in their present shape.

That, under the 42nd clause of the Probate and Letters of Administration Bill, all solicitors and attorneys are to be admitted to practise in all contentious matters in the courts in which your petitioners have hitherto had exclusive practice. That the effect of such an enactment would be to deprive your petitioners of a large portion of such contentious practice, without any compensation or corresponding boon.

That, by the 43rd clause of the said Bill, registrars of district courts, some of which are to be newly constituted, are empowered to grant probates and letters of administration in cases where the property may be under £1,500; a measure which would deprive your petitioners of the largest portion of their practice in all non-contentious business, inasmuch as the number of grants of probate and letters of administration under that sum amount to at least 79 per cent. of the entire number granted annually.

That, by the 89th clause of the same Bill, any business that may remain to any of your petitioners will be subject to still further diminution of profit, the said clause being so constructed as to repeal all that portion of the 53 Geo. 3, c. 127, whereby the office of proctor was made and guaranteed to be an independent and exclusive office, and proposing instead thereof to place the proctors in the position of agents to attorneys and solicitors in relation to all matters testamentary.

That, by clause 40 of the same Bill, any proctor of any ecclesiastical court is entitled to be admitted a proctor of the Court of Probate—a provision under which your petitioners' exclusive privileges would be still further prejudiced, inasmuch as a numerous class of practitioners in minor courts, who have gained their present status by shorter terms of service and cheaper means, would be permitted to practice in those courts in which your petitioners enjoy, at the present time, exclusive right of practice.

That, by the same section (s. 40), the transaction of business in all district registries of the Court of Probate may hereafter be thrown open to “any person,” or to “any class or classes of persons,” at the discretion of any judge of the court who may “think fit to make any rule or order of the court to such effect;” an enactment which, your petitioners submit, would be without any valid precedent, and would speedily be so construed as to be destructive of any privileges remaining to your petitioners.

That, at the present time, a limited number of the senior proctors possess the exclusive privilege of taking articulated clerks, a privilege which those of your petitioners who have not already acquired the same will acquire in due course by seniority. That such advantage, whether in possession or prospect, will be lost to all your petitioners should these Bills pass into law as they now stand, inasmuch as all attorneys and solicitors will have the right of practice in contentious suits, and their clerks, from their admission, will be entitled to many of the exclusive privileges now enjoyed by your petitioners.

That your petitioners desire to represent to your Right Honourable House that the effect of these measures will be not

only to deprive your petitioners of their privileges, but unjustly and causelessly to degrade them from the position of officers of the ecclesiastical courts and of independent practitioners in an honourable profession to that of mere agents of attorneys and solicitors; and they humbly submit to the consideration of your Lordships that such an arrangement is neither calculated to benefit the jurisdiction nor the public, inasmuch as it permits that which the Act 53 Geo. 3, c. 127, was expressly devised to prevent—namely, a system under which practice was secured to certain firms by large “allowances” made to attorneys and solicitors, out of charges levied on the suitors.

That your petitioners further desire to submit, that, whilst the present number of proctors exercising exclusive right is no more than 114, the attorneys and solicitors who will be entitled to share their practice, should these Bills pass into law, number upwards of 10,000; and they especially solicit your Lordships' attention to the fact, that, whilst your petitioners have paid, and continue to pay, large sums of money for the purpose of securing the practice they possess, the Bills before your Lordships contain no provisions whereby any payment of any sort is required from the numerous body proposed to be admitted to share their practice, either in the shape of contribution to the Revenue of the State, or of contribution to any fund which might hereafter be made available for the purposes of compensation to those who will suffer from these proposed enactments.

And your petitioners would further humbly represent that no substantial reasons can be shown for the extinction or withdrawal of any of the privileges your petitioners enjoy on the faith and by virtue of the confirmation of several Acts of Parliament. That no imputation or suggestion has at any time been made of any want of competency efficiently to conduct the business of the courts to which these Bills relate. That, on the contrary, the evidence of the highest authority attests your petitioners' professional skill, their intimate acquaintance with the laws applicable to marriage questions and testamentary jurisdiction, as well as the undeniable character of the exclusive rights of which these Bills would deprive them without any compensation.

And your petitioners further submit, that it would be opposed to the equity of Parliament to subject your petitioners for whatsoever object to the penalties and personal individual losses these measures would inflict. They submit to your Lordships, that, in the Report of her Majesty's Commissioners appointed to inquire into the practice “of the Court of Chancery, and the law and jurisdiction of the ecclesiastical and other courts in relation to matters testamentary,” it was expressly declared by Her Majesty's Commissioners, that, “in common justice to the proctors, compensation should be made to them if their business is thrown open;” and your petitioners further submit, that the justice and equity of this Report has been repeatedly acknowledged, and more especially in a Bill submitted to Parliament on this subject in the session, 1855 by her Majesty's then Attorney-General Sir Alexander Cockburn, her Majesty's principal Secretary of State the Right Honourable Sir George Grey, and by her Majesty's then Solicitor, and now Attorney-General, Sir Richard Bethell, on behalf of her Majesty's present Government.

Your petitioners therefore humbly pray your Right Honourable House to take the premises into your consideration, and to introduce such provisions into the before-mentioned Bills as will continue to your petitioners the sole exclusive right of practice hitherto enjoyed by them in all the testamentary and matrimonial courts, or as will secure to them and to their families just and adequate compensation for the losses which will be inflicted on them, should the proposed Bills pass into law as they now stand.

ACTION ON ATTORNEY'S BILL.

Power and Pilgrim v. Burchnall.—QUEEN'S BENCH.

Mr. Edwin James and Mr. Merewether were counsel for the plaintiffs, and Mr. Serjeant Ballantine for the defendant.

The plaintiffs were attorneys in Warwickshire, and they brought their action against the defendant, a farmer in that county, for £19, the balance of a bill of costs.

It appeared that in May, 1854, the defendant had some dispute about the payment of a church-rate, and he determined to indict some parties for perjury, and instructed the plaintiffs to adopt proceedings. The defendant also gave them instructions as to appealing against the rate, and he desired them to take the opinion of counsel as to appealing or indicting the parties. The plaintiffs prepared a case, and sent it to counsel in London for an opinion. The case was returned with an opinion on it to the plaintiffs, and it was afterwards sent back for a further opinion. This occupied so much time, that the period for

giving notice of appeal had expired. The appeal, however, was entered and respited according to the opinion of counsel, and by the instructions of Burchnall. Some time afterwards Burchnall gave the plaintiffs authority to settle the matter. In November, 1854, the plaintiffs sent in their bill of costs, and on the 7th of the next month Burchnall paid £15 on account. Several letters were written to Burchnall for payment of the balance; but, as he did not pay, the action was brought. The defence was, that the plaintiffs did not act with due diligence, but had been guilty of negligence.

The only question was, whether Burchnall had given the plaintiffs unlimited instructions to prosecute the appeal on the 7th of June.

The plaintiff Pilgrim swore that the instructions were not given on that day to appeal, but merely to take the opinion of counsel on the matter.

On the part of the defendant it was urged that the plaintiffs, knowing that the quarter sessions were on the 26th of June, ought to have given notice of appeal before they sent up the case to counsel, because they ought to have known that by the day they could get the opinion back, the time for giving notice of appeal would have expired. Upon this, it was contended that there had been negligence, and that the plaintiffs were not entitled to the costs of the case and opinion, and of entering and respiting the appeal. These costs, it was said, amounted to more than the sum claimed. The defendant paid 8*l.* 15*s.* 5*d.* into Court.

The defendant was called, and stated that he told the plaintiffs, on the first interview, to take the matter to the sessions, and that Mr. Pilgrim told him that there was plenty of time.

On cross-examination, the defendant said that he denied that he had signed the rate. The book was afterwards produced, and his signature appeared to it; but he would swear that he was not at the meeting on that particular day, and he had determined to indict the parties who had sworn he was there. One of those gentlemen was a farmer of large property, and farmed his own estate. Mr. Power, the plaintiff, had advised him to compromise, and not to go to expense.

Mr. Justice WIGHTMAN, in summing up, said, an attorney was bound to bring a competent degree of skill, and to give such attention, at all events, that he did not occasion loss to his client by want of diligence or neglect; and the question here was, whether the defendant had lost anything by reason of the want of skill or want of due diligence. If he had not, then the defendant ought to pay, because the bill had already been taxed by the proper officer.

The jury found a verdict for the defendant.

HERTFORD COUNTY COURT.

Before J. H. KOE, Esq., Q.C., Judge.—April 24, 1857.

Bonfield v. Kipling.

PRACTICE—REMOVAL OUT OF ORDINARY JURISDICTION—RULE 44.

This was an undefended action to recover the sum of 10*l.* 10*s.* for goods sold and delivered. The defendant, who is an excise officer, three or four days before the court-day, informed the plaintiff that he had been ordered to be removed to another place, out of the ordinary jurisdiction of the court; whereupon the plaintiff filed an affidavit with the registrar, under Rule 44, upon which a plaint was entered, and a summons issued, and served on the defendant's wife two days before the return day thereof.

His Honour held that it was not material to prove that the defendant was about to remove with intent to delay his creditor, but that “he was about to remove out of the ordinary jurisdiction” either voluntarily or involuntarily.—Judgment for plaintiff.

The Overseers of St. Andrew, Hertford, v. Pratchett.

BANKER'S NOTE, PURCHASE OF—PRE-EXISTING DEBT—WHAT IT MEANS—QUERY, ARE PAROCHIAL RATES SUCH?

This was an action brought to recover the sum of £10, “money paid by the plaintiffs, and money received by the defendant.” The following are the circumstances of the case, as appeared by the evidence:—On the 21st July, 1856, between twelve and one o'clock, the assistant overseer applied to the defendant for payment of certain parochial rates, which were paid with a £10 country bank-note, the assistant overseer giving in cash the balance between the £10 and the amount of the rates. The bank remained open till four o'clock of the same day, and did not re-open the following day, but stopped payment. Notice was given to the defendant, on the 22nd, of the dishonour of the note, and subsequently the note was sent to the

defendant, to prove under the bankruptcy, which he returned. The plaintiffs, in order to pass their parochial accounts, paid the amount of the rates.

Defendant's attorney objected that there had been a purchase of the note, with all its risks, as it was not given on account of a pre-existing debt, inasmuch as a parochial rate, which was recoverable by statute in a special, and not in an ordinary, way, could not be deemed a debt. Much stress was also laid upon the recent case of *Lichfield Union v. Greene* (3 Jur. N. S. 247).

Cur. adv. vult.

May 25.—His Honour, in an elaborate judgment, reviewing all the cases bearing on the subject, decided, that, although a parochial rate was not a debt in its strict legal sense, yet it was a pre-existing liability, which was sufficient to exclude this transaction from being considered as a purchase of the note.—Judgment for plaintiffs, with costs.

COURT OF QUEEN'S BENCH.—JUNE 4.

When their Lordships entered the court, Lord CAMPBELL called first upon Mr. Keating, the newly-appointed Solicitor-General, to move.

Mr. Keating said he felt he could not move as Solicitor-General, as his patent had not yet been laid before his Lordship, in consequence of some delay.

Lord CAMPBELL.—We may consider that to be done which ought to be done.

Mr. Keating said he would move as senior counsel, not as Solicitor-General. He then moved for a rule, calling upon Mr. Harrison Padmore to show cause why the whole matters connected with his bill of costs, in the case of *Essex v. Stanley*, should not be referred to the Master to inquire into and report upon. It appeared that the defendant, Major Stanley, who was an officer in the Indian army, and had also served in the Turkish Contingent, had got into the debt of a native money lender at Bombay who brought actions against him. On his arrival in England last year he saw an advertisement in a newspaper stating that a Mr. Padmore, a solicitor, residing in Duke-street, Charing-cross, would give advice to persons labouring under pecuniary difficulties, and obtain immediate protection for their persons and property, at one-third the usual charges, to be payable by instalments; and instead of intrusting his affairs to his regular solicitor, Major Stanley sought the advice of the advertiser. He called at his office and saw a person named George, who undertook to defend the action. In this way the bill of costs had been incurred; it was referred by judge's order to the Master for taxation; and he made a report, which went to show that Padmore had nothing whatever to do with the business in Duke-street, but merely lent his name to George and some other parties to enable them to carry it on, and suggested that further inquiry should take place.

The Court granted a rule nisi.—*Daily News.*

JOINT-STOCK COMPANIES ACT, 1856.—The number of companies formed under this Act from July 16, 1856 (the date of the Royal Assent), to the present time, is 410; of these, 9 have unlimited, and 401 limited, liability.

Recent Decisions in Chancery.

WIFE'S CHOSE IN ACTION—REDUCTION INTO POSSESSION.

Allday v. Fletcher, 5 W. R. 584.

There are few rules of law more arbitrary and inconvenient than those relating to choses in action; and there is no doctrine of equity less allied to reason than that of reduction into possession. The general principle which governs a husband's rights in his wife's choses in action is sufficiently definite, and may be stated without much qualification; but one of the terms included in the definition—viz. reduction into possession—has given rise to endless subtle distinctions, which render the whole subject very embarrassing. In *Allday v. Fletcher*, a legacy, charged upon land and payable upon the death of the tenant for life under the will, was assigned by the legatee, a married lady, and her husband, for valuable consideration. The assignment purported to be "by way of security," but the deed did not contain any covenant to pay, nor a proviso for redemption on repayment by the assignors. The assignee died before the tenant for life, and therefore before the legacy became payable, having appointed Fletcher, who was tenant in tail in remainder under the said will, his residuary legatee and executor. Fletcher, in such capacity, paid debts to an amount greater than the personal

estate, and, subsequently, the tenant for life of the land on which the legacy to the married woman was charged, died; whereupon Fletcher became tenant in tail in possession of such land. The suit was instituted by the legatee (the married lady) for the purpose of getting the legacy settled upon her and her issue; and the questions were, whether the legacy was reduced into possession by the husband, and passed by the assignment; and if not, whether, under the circumstances, it must not be deemed to have been raised and applied in the payment of the debts of the assignee, whose executor and residuary legatee Fletcher was. The judgment of V. C. Stuart went mainly upon the form and effect of the deed of assignment, which he considered to be merely a mortgage, and consequently that there was no reduction into possession of the legacy by the husband. The Lord Chancellor, however, treated the transaction simply as an advance to the husband, the intention being that the assignee was to be repaid by the receipt of the legacy; but he thought the question as to whether the assignment was absolute or conditional was of no importance. There is no doubt as to what is the effect of an assignment by a husband and wife of a legacy payable to her *in futuro*. If the husband die while the legacy is in reversion, the assignment has no operation against the wife; but it has where the husband survives until it becomes a legacy in possession. In the present case, therefore, upon the death of the tenant for life, the right to receive the legacy was in Fletcher, as representative of the assignee; and Fletcher's was not only the hand to receive, but also to pay; for the legacy was charged upon his land. That he was entitled to pay himself there could be no question; and the Lord Chancellor was of opinion, under the circumstances of the case, that the presumption that payment had been made was irresistible. The Vice-Chancellor was of opinion that if the assignment had been absolute, and not "by way of security," the husband would thereby have reduced the wife's legacy into possession; but, on appeal, the plaintiff contended that even an absolute assignment could not have that effect in the case of a legacy payable upon the death of a person then living.

RAILWAY COMPANY—LANDS CLAUSES ACT, CONSTRUCTION OF.

Grosvenor v. The Hampstead Junction Railway Co., 5 W. R. 614.

A nice question arose in this case as to the construction of the 92nd section of the Lands Clauses Consolidation Act, 1845, which enacts that no party shall be required to sell to the promoters of an undertaking a part only of any house, building, or manufactory, if the owner be willing and able to convey the whole. The plaintiffs in the suit, who were trustees of a charity, had purchased land for the purpose of building almshouses thereon, according to a stipulated plan. The stipulation was, that the central portion of the building was to be erected within five years, and the remaining parts as soon as the funds of the charity would permit. In pursuance of this agreement, the plaintiffs entered into possession, and made contracts with builders, following the terms (as to the mode of building and times of completion) of the agreement to purchase. The central portion was duly completed, and part of the remainder. The defendants' company then served a notice on the plaintiffs, requiring, for the purposes of their line, a portion amounting to ten perches of the land. The plaintiffs served the usual counter notice, requiring the company to take the whole of their land or none, on the ground that the portion mentioned in the company's notice was intended for the erection of a wing of the building, according to its original design. The question for the Court was as to whether the plaintiffs were protected by the 92nd section of the above-mentioned Act.

V. C. Wood decided in favour of the company, as he considered that the result of the whole scheme for building the almshouses and establishing the charity was that the central building was to form a complete and integral portion in itself, and being also of opinion that under the agreement for sale the plaintiffs were not bound to erect any other building than the centre. His Honour, however, considered that whatever would pass with "a house" in a conveyance, was part of a house within the meaning of the 92nd section.

PRACTICE—19 & 20 VICT. c. 120.

Re Breal's Settled Estates, Id. 613; *Re Hadwen's Settled Estates*, Id. 614.

These two cases are decisions involving merely points of practice under the Act to facilitate Leases and Sales of Settled Estates. By the 37th section, a married woman applying to the Court, or consenting to an application under the Act, is to be examined apart from her husband; and by the 38th section, the examination is to be made either by the Court, or by some

solicitor appointed for that purpose. In *Re Brealy's Settled Estates*, the Master of the Rolls considered that where an application under the Act was about being made to the Court, the proper course was first to examine the married woman before the petition was presented. In the second case, his Honour restricted this rule to the case where the married woman was herself the petitioner, being of opinion that, where she was only a respondent, it was sufficient for some one to appear for her and consent, her own consent having been taken previously to the hearing of the petition. It appears that the Court will not appoint the solicitor acting in the matter to take the consent.

Since the foregoing was written there has been another petition under the same Act (*Re Procter's Settled Estates*, June 5), in which V. C. Stuart took a different view of the meaning of the 37th section. His Honour was of opinion that the consent of the married woman should be given at the hearing of the petition, or if any difficulty was thrown in the way of such a construction by the words "she shall be first examined apart," he thought that it might be proper to move for leave to present a petition, and the married woman might consent upon the motion; but the Vice-Chancellor considered that a consent not taken in any matter or proceeding pending would be nugatory.

Cases at Common Law specially Interesting to Attorneys.

FALSE PRETENCES, OBTAINING MONEY UNDER—WHEN INDICTABLE.

Reg. v. Sherwood, 5 W. R., C. C. R., 577; *Reg. v. Bryan*, Id. 598.

These two cases decide important points as to prosecutions for obtaining money under false pretences. In the first of them, it appeared that the prisoner was a coal-dealer, and that the charge arose out of his selling a load of coal which he well knew weighed 14 cwt. as and for a load of 18 cwt., and receiving payment as for the latter weight. It was proved that the misrepresentation was made for the purpose of defrauding the buyer of the difference in price between the actual and the represented weight of coal. The prisoner was indicted under 7 & 8 Geo. 4, c. 29, s. 53, which, after reciting that "a failure of justice frequently arises from the subtle distinction between larceny and fraud," provides, that, to obtain by "any false pretence" any money with intent to cheat or defraud any person of the same, shall be a misdemeanor. And it was now contended for the prisoner that his case was not within the statute, because the enactment in question was not intended to apply to sales; and, moreover, because it was in the power of the person deceived to test the accuracy of the representation. And the case of *Reg. v. Reed* (7 C. & P. 848) was relied upon, as being opposed to (but not expressly overruled by) the later cases of *Reg. v. Burgon* (4 W. R. 514), *Reg. v. Roebuck* (Id. 525), *Reg. v. Eagleton* (Id. 17), and *Reg. v. Kenrick* (5 Q. B. 49); by which it was laid down that a false pretence was not the less so merely on account of the existence of a contract. The Court, however, did not hesitate, in the present case, expressly to overrule the decision arrived at in *Reg. v. Reed*, remarking that that case was decided before the provision in question had undergone the ventilation which the subsequent cases above referred to had occasioned. Pollock, C. B., however, took a distinction between real transactions of buying and selling (which he did not think within the Act) and those in which (as in the case before the court) the seller after the bargain and sale demands payment, and fraudulently represents the quantity delivered to be greater, and his demand consequently larger, than it really is. The conviction was therefore affirmed.

In the second case (*Reg. v. Bryan*), the prisoner had represented to a pawnbroker that certain spoons which he offered in pledge were "of the best quality," and "equal to the best of those made by the Messrs. Elkington," whereas he knew they were of inferior quality. Upon this representation, the prisoner obtained an advance of money exceeding the value of the spoons. It was now contended for him that the case differed from that just mentioned of *Reg. v. Sherwood* (which was argued on the same day, immediately preceding that now under notice), in that there, there was a misrepresentation of quantity; here, only of quality; and, moreover, that the goods were of the same species—i. e. plated spoons—as they were represented to be, though the plating was of an inferior quality; and that if every lie of this sort told in the course of a bargain were indictable, there would be no limit to indictments. The judges differed in their opinions. Lord Campbell thought the conviction could not

be supported, inasmuch as a mere representation of the quality of an article sold was not within the statute, any more than it was indictable for a buyer to depreciate the quality, and assert that it was inferior to what it really was. Such an extension of the criminal law would be most alarming. So thought Coleridge, J., saying, "if puffing by the seller would be indictable, depreciation by the buyer should be equally so. 'It is nought, it is nought, saith the buyer; but when he goeth his way he boasteth.'" Cockburn, C. J., also concurred, saying that it made all the difference whether the vendor represents the article to be merely better in quality than it really is (as in the case before the Court), or whether (as in the case of *Reg. v. Roebuck*) he says the article is of a precious metal, whereas it is of a base metal. Pollock, C. B., agreed that the conviction could not be supported, and repeated his opinion that the Act was not intended to apply to the ordinary commercial dealings between buyer and seller, though there might be cases to which the statute would apply connected with the transaction of buying and selling, as if an article were concocted expressly for the purpose of deceit, and sold as what it was not, even with regard to quality only. Erle, Crompton, and Crowder, JJ., and Watson and Channell, BB., were all of opinion, on grounds generally similar to those already noticed, that the conviction was not sustainable; but Bramwell, B., was of opinion that the conviction ought to be affirmed, because he inclined to think that the statute extended to cases where the fraud was not the immediate mode of obtaining the money, but the contract was obtained by fraud, and the money handed over to the person in pursuance of that contract; and that the "obtaining by false pretence" mentioned in the Act, meant a fraudulent obtaining, whether directly or mediately; in short, wherever one person makes a bargain by fraud, and so by the fraud gets possession of the property of another. To this last opinion Willes, J., adhered, chiefly in deference to what he knew had been the impression of the late Chief Justice Tervis on this point of criminal law.

POLICE-MAGISTRATE, APPLICATION AGAINST.

Reg. v. Dayman, 5 W. R., Q. B., 578.

We noticed, a few weeks ago,* a fruitless application to the Queen's Bench under 11 & 12 Vict. c. 44 (in lieu of the ancient practice of *mandamus*), in order to compel a police-magistrate to adjudicate. The above case was under the same provision; and it was sought to make Mr. Dayman hear and adjudicate upon a complaint, in order to entertain which it was necessary first to decide that a certain street was a new street. The magistrate, however, decided it was not a new street, and the Court refused to make him proceed with the complaint, for, said Lord Campbell, the affair has become *res judicata*. "We are not a court of advice: we sit here to determine matters in controversy between suitors, and we cannot give our opinion before or after judgment." In this decision Wightman and Crompton, JJ., concurred; but Erle, J., thought the case one for interference, because the magistrate's decision had proceeded on a cardinal fact upon which his jurisdiction depended, and therefore only amounted to a declaration that in his opinion he had no jurisdiction to entertain the matter of the complaint.

EVIDENCE, POINT AS TO—LIS MOTA, DOCTRINE OF, CONSIDERED.

Gee v. Ward, 5 W. R., Q. B., 579.

This was a question of evidence. By the law governing the production of evidence, no declaration can be admitted as evidence of reputation which has arisen *post litem motam*—i. e. which was made after a controversy arose touching the matter to which such declaration relates. It has been a question of some nicety, to what date this exclusion must be referred; and it appears to remain unsettled whether, in order to exclude a declaration on this ground, there must not be, not merely facts which may lead to a dispute (according to the ruling of *Alderson, B.*, in *Walker v. Beauchamp*, 6 C. & P. 552), but a suit, or controversy preparatory to a suit, actually commenced, or dispute arisen, and that upon the same pedigree or subject-matter which constitutes the question in litigation (see *Davies v. Lowndes*, 6 M. & Gr. 471). At all events, a declaration of pedigree will not be excluded as having arisen *post litem motam*, because made with the express view of preventing disputes—a doctrine first established in the *Berkeley Peerage Case* (4 Camp. 401); and, in accordance with this doctrine, the point which arose in the case above noticed was decided. The question at the trial was, whether the plaintiff or the defendant was heir of one G., who died in 1854. And it appeared that in 1806 an

Vide sup. p. 158 (*Reg. v. Paynter*).

inquiry as to the heir-at-law of G., then a lunatic, was directed by the Court of Chancery; and it was now sought to put in the deposition of the grandmother of G., taken at such inquiry. The argument in this case ultimately turned upon the question whether depositions in a prior Chancery suit are excluded by the rule under consideration; and the Court of Queen's Bench admitted the declaration as to the pedigree made by the grandmother of G., in accordance with the rule laid down by Mr. Phillips in his book upon "Evidence" (vol. 1, p. 213, 9th ed.), which they held to express the law correctly—viz. that the having a distinct object in view in making the declaration, even though the object can only be gained by afterwards using the declaration in evidence, is not sufficient to exclude the declaration—"as, for example," says Mr. Phillips, "if the father or mother make a pedigree for the purpose of preventing disputes in the family."

HABEAS CORPUS AD TESTIFICANDUM, WHEN IT WILL NOT LIE.

Binns v. Moseley and Cobbett, 5 W. R., C. P., 583.

A *habeas corpus ad testificandum*, under 44 Geo. 1, c. 102, was applied for to bring up Cobbett, a prisoner in the Queen's prison, to the Court of Common Pleas, in order that he might move for a new trial in the above action of ejectment, in which he was a defendant. The Court, however, held that the statute did not apply to such a case, being intended only to meet the case of prisoners whose evidence is required.

ATTORNEY'S BILL—MISJOINDER OF DEFENDANTS, EFFECT OF.

Wilkins v. Alexander & George Steele, 5 W. R., C. P., 610.

This was an action on an attorney's bill brought against the two defendants jointly; and the verdict was "for the plaintiff as against George, and for the defendant as against Alexander." The judge said this was a verdict for the defendants, whereupon the plaintiff applied to him to amend the declaration by striking out the name of Alexander, which he declined to do; but he reserved leave to move to enter the verdict for the plaintiff, if the Court thought the judge at *Nisi Prius* had power to amend. The Court, however, thought he had no such power. The 222nd section of the Common Law Procedure Act, 1852, had no application; and it was needful to look only to the 37th. But that section gives power to amend only where the defendant has been erroneously joined by a mistake, and not where he has been joined in order to try whether he was liable or not. Moreover, "even if the Act of Parliament gave the power, this is not a case in which it ought to be exercised. It would be a very dangerous practice, and would lead to parties being unjustly made defendants, if such amendments were made. If there is any misconception, and the application is made in the course of the trial, then it is a fit case for the judge to exercise his discretion; but not when the plaintiff goes to the jury against both defendants." The Court proceeded to intimate that the course for the plaintiff to adopt (if he thought proper) was to bring a fresh action against the single defendant; and, indeed, it would seem, from *Robson v. Doyle* (3 Ell. & Bl. 396), that even if they had considered the case one for amendment, they would not have interfered after trial, except by way of allowing a new trial, striking out of the record the name of the defendant wrongly joined.

Professional Intelligence.

ADMISSION OF SOLICITORS.—TRINITY TERM, 1857.

The Master of the Rolls has appointed Friday, the 12th day of June, 1857, at the Rolls Court, Chancery-lane, at four in the afternoon, for Swearing Solicitors.

Every person desirous of being sworn on the above day must leave his common law admission or his certificate of practice for the current year at the Secretary's Office, Rolls-yard, Chancery-lane, on or before Thursday, the 11th of June instant.

ADMISSION OF ATTORNEYS.

The following days have been appointed for the Admission of Attorneys in the Court of Queen's Bench:—Thursday, 11th June, and Friday, 12th June.

Trinity Term, 1857, pursuant to Judge's Order.

Clerk's Name and Residence. To whom articulated, &c.
Neville, Frederick Herbert, of 14, Calthorpe-st., and Chas. Best, of Bl-
14, Soley-terrace, Clarendon-square. } mingham.

Notice to take out or renew Certificate on the 13th day of June, 1857, pursuant to Judge's Order.

Ivins, Thomas Edmund, of Loughborough and Selby.

The Vice-Chancellor Sir J. Stuart expressed a wish that decrees should not be prosecuted in his chambers unless they were brought into them within six months after their date.—
June 4, 1857.

Correspondence.

DUBLIN.—(From our own Correspondent.)

ENGLAND AND IRELAND—THE BENCH AND THE BAR.

The appointment of Mr. H. S. Keating as English Solicitor-General is one of those circumstances which now and then arise to indicate the growing appreciation of Irish talent on the other side of the Channel, and consequently to tempt young aspirants away from the ranks of the profession here to a wider arena, where each combatant for honours has more elbow-room for the conflict, and where there are higher rewards in prospect for those who are successful in it. The recent elevation of those distinguished judges, Martin and Willes, one from the far north, the other from the extreme south of Ireland, had a great effect in stimulating the ambition, as well as in allaying the anti-English prejudices of young Irish lawyers in general. The merited success of Sergeant Shee in the common law courts, of Mr. Cairns, in Chancery, as well as of a large number of less distinguished natives of the Emerald Isle, does not pass unnoticed by observers who regard the "signs of the times." From these premises, however, it would not be easy to arrive at the conclusion which at first, perhaps, might present itself to the reader's mind. By frequent migrations, the legal profession in England may be yearly becoming composite as to its nationality; but let it not be imagined that the great prizes in Ireland are becoming more accessible to importations from Westminster Hall. Indeed, it is somewhat remarkable, that, never since Earl Strongbow landed on these shores, would the appointment of an English lawyer to the Irish Bench meet with more determined and general opposition than it would at the present time. This feeling cannot be considered unreasonable, when it is remembered that strict reciprocity is all that is contended for by what may be called the anti-English party. For some centuries past English lawyers have, from time to time, been brought over here to preside in the Court of Chancery; but no instance has been recorded of any Irish practitioner receiving a judicial appointment in England. Lord St. Leonards was the last, as he was the greatest, English Lord Chancellor of Ireland. A less eminent man than he is would have been received with colder welcome; but however this may be, it is generally considered that Lord St. Leonards was the last of the series of imported chancellors—unless, indeed, her Majesty, by appointing an Irish practitioner to the English bench, reconcile the profession here to what they would otherwise consider to be the direst of insults. Against such interchange of appointments no sound objection can be urged, while many reasons can be given in its favour. But to any attempt to revive the old one-sided system, the Irish profession, and indeed the entire nation, would offer a fierce, and probably an effectual, resistance.

Connected with this topic, and so intimately connected with it as always to be mentioned with it in conversation, is a passage in the life of the late Lord Plunket, on which, had more light been contemporaneously thrown, much bitterness and ill-feeling might have been prevented. The bar here are fond of narrating how that Plunket, while in the zenith of his parliamentary and forensic reputation as an advocate and a lawyer, was nominated to the office of Master of the Rolls in England; and how (so the story goes) the English bar made such an outcry, that the appointment was immediately revoked. This story, if substantiated, would certainly go far to justify the general aversion to judicial importations from England; and we have made every effort to arrive at some basis of authority for the story, but without success. Lord Plunket was undoubtedly, at one time, on the point of becoming Master of the Rolls; and it may further be conceded that some change of plan prevented his ever actually occupying the Rolls House; but we have undoubted authority for asserting that no movement, actual or threatened, on the part of the English bar, interfered with the scheme, which must have been abandoned with his consent for reasons altogether foreign to any question between the two bars. It may appear strange that so groundless a tradition as this should have flourished to this day, and should be even now daily repeated and commented on; but it would seem that some fictions have more vitality in them—more tenacity of existence—than have many truths, and, therefore, require much of

reiterated contradiction and disproof before finally vanishing. We may be permitted to close these remarks with one proposition, and with two practical suggestions. The proposition is—that, considering the close proximity into which England and Ireland are brought by steam and telegraph, by commerce, by unity of government and language, by mixture of races, by the investment of capital in Ireland, and by numerous other and ever-multiplying ties, it is desirable that the laws should be framed and administered alike for both kingdoms.

To further this object, care should be taken, that, for purposes of legislation, both kingdoms should be treated as one; separate statutes for Ireland (many of them purely experimental) should no longer be tolerated. It would not, however, suffice to have the laws framed alike if they are to be differently expounded and administered. To insure uniformity, the Crown should not only select the judges of assize from the judicial benches of both countries, but should, on principle, fill any vacancy occurring on either of those benches by promoting the ablest and most suitable man who can be found on either side of the channel. The public welfare demands the amplest freedom of selection; nor did the common law, in its wisdom, place any restriction whatever on the Crown in its choice of a new judge: it remained for the narrow minds who have dominated in later times to impose a virtual restriction on all, as well as a legal restriction on some offices—in fact, to exclude from the English bench all who, however well qualified, are not members of the English bar.* The great, the only canon of selection should be, to choose the man most able for the vacant office.

THE TIPPERARY BANK.

When this celebrated institution first came under the operation of the Winding-up Acts, it was generally expected, that, from the long list of shareholders, a very large sum of money would be recovered applicable towards the discharge of the liabilities of the bank. The post of official manager became therefore an object of ambition to a crowd of candidates, whose respective merits and capabilities were discussed at great length before the Master in Chancery in whose hands lay the power of selection. A gentleman of ability was chosen for the office, who has worked indefatigably at his task; but apparently with small success. The coveted position has involved him in labour and litigation, the only result of which seems to be, that the "list of contributories" is dwindling away to a degree which forbids all hope of anything beyond a nominal dividend. The more wealthy shareholders have, with but one exception, contrived to expunge their names from the list, on various ingenious pretexts; while the whole body of English shareholders have also been solemnly adjudged to have escaped liability, by reason of their having been fraudulently drawn into the concern. The net result of all this expunging process appears by a recent advertisement in the journals of this day, wherein Master Murphy "peremptorily" required a very scanty list of contributories to bring in £250 per share. How many of them will respond to the invitation remains to be seen. We should not, however, calculate that more than three or four of them have the ability to comply, even if they were inclined to do so. Among the rest the name of Mr. Antony Norris, Solicitor, of London, appears in his capacity of personal representative of John Sadleir, "deceased," holding 150 shares. Mr. James Sadleir, the late managing director, figures as holding no less than 1,738 shares. From these specimens of contributories, the creditors of the bank will be able to form some idea of the amount of further dividend which they are likely to receive.

SAVINGS BANKS.

To the Editor of THE SOLICITORS' JOURNAL & REPORTER.

SIR,—The proposed Savings Bank Bill being before the public, permit me to ask space in your journal for the purpose of making some remarks on this measure.

Two leading principles should govern all enactments relating to savings banks—the first, that there should be perfect and entire Government security for every deposit; the second, that neither the Government nor the Government funds should bear

any cost, charge, or expense whatever in respect to savings banks, or in respect to depositors in savings banks or their moneys.

The first principle is so generally received and adopted as an indispensable attribute to savings banks, that it would not be necessary to say anything on that subject if this Bill did not so greatly fall short in giving that security. I am more struck with this defect from having had occasion to examine first the Bill brought forward by Mr. Disraeli, during the government of Lord Derby, and, afterwards, that proposed by Mr. Gladstone. I write from memory, but I feel no doubt that each of these Bills comprehended all savings banks, whether already established or to be established, under one rule, to the effect of making it compulsory on all to extend Government security to every deposit.

Bearing in mind the comprehensive plan of those Bills, one is surprised to find how small a part of the defects of savings banks already established is touched by the present measure. These defects are—firstly, that these banks do not afford complete Government security to the depositors; and, secondly, that they have brought, and will continue to bring, a large amount of loss and charge on the Government funds.

In regard to these banks, the present Bill does not contain any provision to diminish the said amount of loss and charge, nor to prevent its increase in future.

By the 14th section, trustees and managers of any savings bank already established may obtain the security of Government for the depositors in such savings bank, upon condition that its solvency is proved by the production of the pass-books of the depositors, or by such other evidence as shall be satisfactory to the National Debt Commissioners.

It is impossible to foresee what other evidence will satisfy the Commissioners; but I will venture to say, that if the production of ALL the pass-books be made the condition upon which obtaining Government security will depend, that condition is not likely to be fulfilled, nor Government security to be obtained. And I will also venture to say, that, without the production of all the pass-books, and comparing the entries therein with the books and accounts in the bank, no complete and conclusive evidence of solvency, and of the entire absence of fraud and misappropriation, can be obtained.

Under this view of the case, it appears improbable that any large proportion of the savings banks already established will be able, even if willing, to fulfil the conditions on which the security of the Government can be obtained for the depositors.

Except the provision in the 14th section, no stipulation is contained in the Bill for the security of the funds of savings banks already established, which funds amount to more than thirty millions of money. Those who expected to find in this Bill a remedy for the unsatisfactory state of this immense mass of property will feel greatly disappointed.

The regulations for the establishment of fresh savings banks appear sound and good, so far as they go; but it will be a fallacy to suppose that any examination of accounts by inspectors and auditors will entirely prevent fraud. Suppose the case of a trustee, or manager, or actuary receiving a series of deposits, and entering all the sums properly in the respective pass-books, but omitting to make corresponding entries in the bank books, and embezzling the money. The keenest and most extensive audit of the bank books will not discover any trace of the fraud if the pass-books are not also before the auditor, which I consider impossible, because a savings bank of moderate business will have from five thousand to ten thousand pass-books, all of which cannot be got sight of, either in one day, or in any reasonable time.

If a system of entire security cannot be established, it should be made as perfect as possible. The best security will be found by employing officers under bond with sureties for a good amount. Unpaid trustees and managers will not give such security, but actuaries and other paid officers will; therefore, the receipt of deposits or other money by trustees and managers should be strictly prohibited, and be confined to the officers giving security. It should not be left to the National Debt Commissioners or the Comptroller-General to enforce this important regulation, because their doing so may be thought invidious or distrustful of the unpaid officers whose services are useful and valuable. This regulation should be inserted in the Bill, and thus be taken away from the judgment of all parties concerned.

These remarks apply to the first of the two leading principles I have ventured to lay down for the government of savings banks. At a future opportunity I will draw the attention of your readers to the second of those principles, and will endeavour

* The Crown has legal power to appoint any person to the office of Lord High Chancellor and Master of the Rolls, or to any of the Common-law Judgeships. Under several modern Acts of Parliament, the following judicial offices can be held only by barristers-at-law of a certain number of years standing:—Lords Justices of Appeal, Vice-Chancellorships, and County Court Judgeships. Of course, Irish barristers are legally eligible for all these offices; but, notwithstanding this, the present Irish Attorney-General (J. D. Fitzgerald) characteristically attempted last year to pass a Bill establishing the office of Vice-Chancellor in Ireland, with a clause limiting the qualification to fifteen years' standing at the Irish Bar.

to show that there is no reason why the national funds should suffer from loss or damage which may occur either through fraud, or by reason of variations in the price of funds; and I will point out a mode in which indemnity against all such charges may be found.

I am, Sir, your most obedient servant, P.

To the Editor of THE SOLICITORS' JOURNAL & REPORTER.

SIR,—It may, perhaps, come within the scope of your office to offer, from time to time, some information respecting our brother professionals in the various colonies belonging to this country, pointing out the advantages and disadvantages under which they labour, contrasting their methods of procedure, &c., and adding thereto suggestions for the guidance of any member of the profession who may be advised to try his fortune amongst them.

Should you entertain this idea, I for one should be glad to hear of the respective advantages of the Canadian and Australian Colonies, with any suggestions which you may think would be of service to a young solicitor going abroad.

June 2, 1857.

A SUBSCRIBER.

[We shall be glad to receive and publish any information and suggestions on this subject which our readers may have to offer.]—Ed. S. J. & R.

Review.

Blackstone's Commentaries on the Laws of England. A new Edition adapted to the Present State of the Law. By R. MALCOLM KERR, LL.D., Barrister-at-law.—Murray, Albemarle Street.

If the multitude of editions were conclusive evidence of the merits of a book, "Blackstone's Commentaries" must be, what its most enthusiastic admirers pronounce it, the greatest popular law book which was ever written. We think, ourselves, that its merits have been rather exaggerated, though it cannot be denied that it is indispensable to the student, and very convenient as an *index raisonnée* of the law even to the man of business. But its value does not consist in the lucid arrangement of subjects, in the profound appreciation of law as a science, nor in any very remarkable accuracy and research as to the origin and growth of our legal system. The last claim is very commonly put forward on behalf of the author; but though considerable learning is no doubt displayed, the pure text of "Blackstone" contains many speculations which are questionable as to matters of fact, and very far from sound in their philosophy. "Blackstone's" strongest claim to pre-eminence is due to the grace and spirit of his diction, which no other legal writer has rivalled, but his reputation is perhaps owing, in a still greater degree, to the circumstance that he stands alone. With the exception of Serjeant Stephen's "Commentaries," which are themselves based on the text of "Blackstone," there is not a single book in the English language which even attempts to rival the old "Commentaries" as a complete popular picture of English jurisprudence.

This is quite enough to account for the great popularity, and to justify the repeated new editions, of the work without indorsing all the Tory defences for the law as it was, which the admirers of Sir William Blackstone are in the habit of describing as the highest philosophy. One thing is certain, that if this lavish praise is deserved, all the changes which have turned topsy-turvy the system of which "Blackstone" was the panegyrist must have been blunders. Either the philosopher was often at fault, or the law-reformer has been going very wrong indeed.

We have not made these observations for the sake of disparaging what is undoubtedly a very valuable book, but merely as a foundation for a rational judgment on the principles which ought to guide a modern editor in handling the old materials. The excessive reverence for the original text was, until of late years, such that no one ventured to do more than append to it a note, about every six or eight lines, to say that the reader must bear in mind that Blackstone's account of the law has no more reference to the actualities of the present time than if it related to antediluvian jurisprudence. This mode of editing was most mischievous and distracting, especially to the student who wandered from the text to the note and back again, until he found himself in hopeless confusion, and utterly unable to retain in his memory the result either of the law that was, or the law that is, which had thus ingeniously been mixed up together. There is no course open, therefore, for an editor who desires

to produce a readable sketch of the law of England, founded on the text of "Blackstone," except to interpolate his own additions among the venerable sentences of the old commentator, and to strike out pretty freely those portions of the original text which modern legislation has superseded. Accepting this necessity, the editors of "Blackstone" have varied much in the extent of the liberty which they have taken with the text. Of all who have devoted themselves to the subject, Serjeant Stephen has treated it with the boldest and most masterly freedom; while the author of the edition now under review is most remarkable for the cautious fidelity with which he has adhered to the original, wherever it was not absolutely obsolete and wrong. "Stephen's Commentaries" form, in fact, a new work, only connected with the earlier one by the circumstance that much of the old matter is used up in the pages of the new treatise. Mr. Kerr's "Blackstone" is strictly what its title-page imports—a new edition of the author adapted to the present state of the law. Thus the old and unscientific division of the subject into Rights of Persons and Rights of Things, is maintained out of reverence to the author, and the sequence of the subordinate topics is in no instance interfered with. So rigidly has Mr. Kerr adhered to his principle of altering the text no more than the change in the law absolutely required, that he has not hesitated to sacrifice to it one of the great merits of the original work—viz. the easy and graceful flow of the narrative. This strikes us as a mistake on the part of the editor. When a passage had to be altered to accommodate it to the enactments of the last 100 years, surely it would have been better to have re-cast it into a readable shape than to have destroyed its beauty and rhythm by tagging on half-a-line of incongruous diction in one place, a whole line in another, and capping a sentence every here and there with a solid mass of condensed statute law, which harmonises about as well with the language of the author as a modern hat would with the costume of one of King Charles's cavaliers. It is not easy so to assimilate the tone of an old writer as to introduce extensive alterations in his text without destroying its elegance and finish; but Mr. Kerr has not made the attempt, or, if he has, his capacity for the task is very much below that of average editors. His conception of his editorial obligations seems to have been to take the old text, and add the greatest possible amount of modern statutes, with the smallest possible elimination of the old phraseology. This was adhering to the letter rather than to the spirit of his duties, and the result is a book much less like the original in the qualities for which that was most admired than would have been produced by a more liberal interpretation of the editor's functions. It is one thing to preserve as far as possible the spirit and character of the author while adapting his statements to the present state of the law. It is quite another thing to keep as many of Blackstone's words as could be retained. The present editor has, we think, been more successful in the latter than in the former object. His most elegant method of adding to the narrative the law which has grown up since Blackstone's time is to take one of the old Professor's pleasant sentences, and to couple it with an "and also" to any amount of dry head-note which could be extracted from the appropriate page of the statute book. Mr. Kerr appears to have laboured at his task with great industry, and we are bound to admit, that, so far as we can discover, the law has been accurately brought down to the present time. But this is not all that one looks for in a popular treatise. An architect who should "adapt" a fine old mansion to the luxury of modern life by tacking on a room in front, opening out a window at the side, and building an excrescence in the rear, all in the purest suburban gothic, would perhaps make the house a much more useful and commodious affair than it was before; but he would not improve its elegance, nor could he claim credit for having treated the old stones with any more real reverence than if he had pulled the building to the ground, and re-erected it on a model framed in the spirit of the original builder.

This analogy will furnish a not unfair illustration of Mr. Kerr's contributions to the text of Blackstone. At the same time, if much of the elegance of the original work is sacrificed, the new edition offers a summary of the existing law at a cost very much below the ordinary charges for legal text-books. Why Mr. Butterworth should be unable to produce a copy of "Stephen's Commentaries" at the same reasonable price which Mr. Murray asks for an equally well-printed copy of "Blackstone" we cannot explain; but it strikes us that the law publishers would consult their own interest no less than the pockets of purchasers by a very considerable reduction of the exorbitant charges which they are in the habit of making for the works which they produce.

Juridical Society.

This society met on Monday evening, the 25th May. Richard Jebb, Esq., took the chair, in the absence of Sir John Stuart, V. C., who was unable to be present at the commencement of the meeting, and apologised for not being punctual, having been detained until a late hour at chambers.

Mr. FITZJAMES STEPHEN read a paper on "The Practice of Interrogating Persons Accused of Crime." He commenced by remarking that there was no rule so inflexibly observed in English criminal procedure as that which forbids the interrogation of persons accused of crime. There were few in which the English practice was so unlike that of other nations, and probably none which excited so much controversy since its wisdom was first called in question by Jeremy Bentham. Though the practice was peculiar to this country, there was much difficulty in finding express authority for the proposition that it would be illegal to interrogate the prisoner. Blackstone, Stephen, Hale, Hawkins, Foster, Russell, Phillips, Starkie, Taylor, and even in the elaborate discussion of the subject introduced into Mr. Best's treatise on the "Principles of Evidence"—a book for the ability of which the learned Reader expressed admiration, though he dissented from many of its principles—there was only a general statement, based on no explicit authority, that to interrogate the prisoner is illegal. There were, however, three well-recognised principles, each of which had some connection with the practice, and might, with more or less justice, be taken as an authority for it. The two first are expressed in the celebrated maxims, "*Nemo tenetur prodere accusare seipsum*," and "*Nemo debet esse testis in propria causa*;" and the third, in the doctrine that torture is unknown to the common law. But neither of these doctrines condemned the practice of interrogating the accused; and the way in which by their united operation it is excluded is a curious illustration of the manner in which English law assumed its present shape. The maxim "*Nemo tenetur prodere seipsum*" was first quoted in certain cases referred to in 3 Bulstrode, and seems to be as old as 10 Elizabeth. It was first employed in the case of prohibitions issued to the spiritual courts against examining the parties upon oath in cases involving forfeiture; and the familiar application of the maxim in later times has been to protect witnesses against answering questions which might have a tendency to involve them in criminal charges, but it had never been held to mean that such questions are not to be asked. Indeed, it was matter of everyday practice to ask persons whether they have committed crimes; and if they claim the protection of the maxim in question, to urge upon the consideration of the jury the fact that they had not ventured to deny the imputation which it conveyed. It might also be observed, that, though the law does not compel an answer to such a question, the ordinary witness's oath "to tell the whole truth" constitutes a conscientious obligation to do so, which the law not only allows to be imposed, but itself imposes.

The maxim "*Nemo debet esse testis in propria causa*" appeared at first sight to have a closer connection with the practice under consideration. A criminal trial is, in form, the trial of an issue joined between our sovereign lady the Queen and the prisoner at the bar, and it would be very hard to overrate the importance of the influence which this circumstance had over every part of our criminal law. The prisoner, it might be urged, is a party to the action, and was accordingly an incompetent witness; and no doubt this view of the case was, to a certain extent, recognised by the late Act to amend the "Law of Evidence" (14 & 15 Vict. c. 99, s. 3). It would be observed that the language of the Act assumed, but did not extend or create, incompetency. There were, however, circumstances which went far to show that the analogy between civil and criminal proceedings was not quite complete, and that it must not, especially in respect of the prisoner's evidence, be pressed too hard. One instance might be mentioned which showed that the maxim and the practice under consideration were not really inconsistent. It was true that a prisoner could not be called as a witness either for or against himself; but it was by no means true that he could not give evidence either for or against himself. On the contrary, he constantly did give such evidence, and sometimes it was the most material evidence in the case. He is always allowed to tell his own story to the jury, and in doing so it was competent to him to state any number of facts upon his own unsupported authority, on which facts the judge makes comments. No one could pass a day in a criminal court without hearing instances of this practice; but

no one ever heard a judge tell the jury that the prisoner's unsupported statement was not evidence, and that they must dismiss it from their consideration; yet it would be his duty to do so if the maxim that no one is to be a witness in his own cause were rigorously applied to criminal cases. In illustration of this, the learned reader referred to a case which he heard tried at Warwick, at the Winter Assizes of 1855. On that occasion the counsel for the prisoner began to state to the jury, to use his own words, "as the prisoner's mouthpiece," facts of which he could offer no evidence. He was stopped by the judge (Mr. Justice Cresswell), who said that though the prisoner might make such a statement, his counsel might not; and that if the case was to be rested on such a defence, it must be made by the prisoner in person—which was accordingly done. Couple this practice with the fact that at common law the prisoner's witnesses in capital cases were not upon oath, and we have a strong argument to prove that the statement of the prisoner stands now upon nearly the same terms as the rest of the evidence in his favour stood upon before the statute of Anne. If, therefore, the prisoner might give evidence in his own cause notwithstanding the maxim, the maxim cannot forbid his interrogation, though the rule "*Nemo tenetur prodere seipsum*" must justify him in refusing to answer.

The third principle which may be supposed to militate against the interrogation of the accused is, the principle that torture is unknown to the common law. Failing to find any express or implied authority which is entirely satisfactory on the subject, recourse must of necessity be had to the practice of the courts; and there can be no room for doubt, that, for at least a century and a half, they have acted upon the supposition that to question a prisoner is illegal. Some earlier precedents showed, however, that such had not been by any means the uniform theory of English lawyers; that, on the contrary, the opinion arose from a peculiar and accidental state of things which had long since passed away; and that our modern law was in fact derived from somewhat questionable sources.

The earliest form of trial known in England was the Saxon trial by ordeal. This was gradually superseded by the Norman trial by combat, which gave way by degrees to the trial by jury, and was finally abolished, after a long period of dormancy. To say that each of these forms of trial involved the questioning of the accused was to say far too little. Each of them was his emphatic answer to the question—urged upon him either by common report in the form of a grand jury, or by a private appellant or accuser—whether he was or was not guilty. The character of the ordeal speaks for itself. The oath of the appellee ran in these terms:—"Hear this, O man! whom I hold by the hand, who callest thyself John by the name of baptism, that I, who call myself Thomas by the name of baptism, did not feloniously murder thy father, William by name, nor am anywise guilty of the said felony." Trial by jury was originally a trial by witnesses, and it was not till the reign of Henry IV. that the two functions were completely separated. These witnesses were called compurgators, and the very name implies that the prisoner was called upon to deny the charge. Indeed our own practice of calling upon the prisoner to plead could not be reconciled with an absolute adoption of the rule, that a man is not to be questioned as to his guilt; and one of the most consistent and earliest advocates of that principle (Col. Lilburne) long refused to plead upon that very ground. We had, however, apart from these considerations, an unbroken line of precedents in favour of the practice in question, from the earliest periods of English history down to 1693.

Mr. Stephen then proceeded to adduce instances—among others the trial of Sir N. Brambre, Lord Mayor of London, for treason, in 1388; of John Hall, in 1400, for the murder of the Duke of Gloucester; of Sir William Stanley, in 1494, for treason; of Sir T. Moore, in 1535; of the Duke of Norfolk, in 1571; of Udale, in 1599: also of Throckmorton and others—which showed that the system of interrogating prisoners existed in those times; and then traced the cases down to the trial of the Rev. Mr. Hawkins, for theft, before Sir Matthew Hale, then Lord Chief Baron, who is reported to have questioned the prisoner—as did also Holt, L. C. J., in the trial of Harrison, in 1692, for murder (see 12 State Trials, 859).

The first case where it appeared that a prisoner objected to answer was that of Colonel Lilburne, who, being called on to plead, said—"Sir, by the Petition of Right, I am not to answer any questions concerning myself." The judge corrected him by saying that he should not be compelled to answer—i. e. that he should not be put to the torture, which, as Mr. Jardine has proved, was in constant use in the Star Chamber Practice, not

merely in cases of State offences, but when persons were accused of ordinary crimes, such as robbery and horse-stealing.

The judges of the 18th century administered the most cruelly severe penal code that ever existed. They made the procedure as lenient, because the Legislature made the laws as bloodthirsty, as possible. No other nation in Europe hung men for grand larceny, but no other nation in Europe refused to receive a confession if it was induced by a threat.

The recollections of the Star Chamber—the infamy of the judges of the later Stuarts—the illegality of torture, then peculiar to England—the gradual reduction of the law to system characteristic of the 18th century, and the anomaly of penal laws of atrocious severity administered by judges at once humane, and in a certain direction powerful—all these taken together remove any difficulty in understanding how the practice of not interrogating accused persons came to be based upon the grounds on which it is commonly rested.

To the principle thus established there were two very considerable exceptions. In the case of parliamentary impeachments, the proceedings have frequently been conducted by articles and answers, differing only in form from interrogatories. In the cases of Lord Stafford, Colonel Fiennes, and Lord Maclesfield, one answer was construed as admitting so much of the corresponding article as it did not deny; and, on the other hand, justices of the peace were required, by the repealed statute of 1 & 2 P. & M. c. 13, and 7 G. 4, c. 64, to take the examinations of persons accused, and the informations of witnesses, and though this practice is now altered by 11 & 12 Vict. c. 42, s. 101, it was held in several late cases that the repealed statutes entitled the magistrates to question persons brought before them on criminal charges. In one case this was held to be irregular, but in that instance no other general principle was appealed to.

The learned reader then referred at length to some French cases to show how the system of interrogating prisoners was sometimes grossly abused in France, and proceeded as follows: Whether a prisoner is defended by counsel or not, his silence is very unfavourable to him if innocent. When he is defended, he suffers almost equally from the unskillfulness or from the ingenuity of his counsel. If his advocate, from forgetfulness or want of skill, fails to explain a suspicious circumstance, it weighs heavily with the court and the jury; if he puts forward a complete and consistent answer, the jury look upon it with suspicion, because it proceeds from a man whose profession it is to frame plausible explanations of inconvenient facts. If, on the other hand, the prisoner is undefended, his position is at times absolutely pitiable. I cannot describe the difficulties under which such a man labours without resorting to a familiarity of illustration which I hope you will excuse. The common run of criminal trials passes somewhat thus: Ten or twelve awkward clowns, "looking," as a very eminent advocate once observed, "like over-driven cattle," are crowded together in the dock. Their minds are confused by formulas about challenging the jury, standing on their deliverance, and pleading to the indictment; the case is opened, and the witnesses called by a man to whom the whole process has become a mere routine, and whose very coolness must confuse and bewilder a densely-ignorant and most deeply-interested hearer. After the witness has been examined comes a scene which most of us know by heart, but which I can never hear without pain. It is something to the following effect:—*Judge*: Do you wish to ask the witness any questions? *Prisoner*: Yes, Sir; I ask him this, my Lord—I was walking down the lane with two other men, for I'd heard—. *Judge*: No, no; that is your defence—ask him questions. You may say what you please to the jury afterwards, but now you must ask him questions. In other words, the prisoner is called upon, without any previous practice, to throw his defence into a series of interrogatories, duly marshalled, both as to the persons to be asked and as to the subjects to be inquired into—an accomplishment which trained lawyers often pass years in acquiring most imperfectly. After this interruption has occurred three or four times in the course of a trial, the prisoner is not unfrequently reduced to utter perplexity and forgetfulness, and thinks it respectful to be silent. Hardly any ignorant person can tell a story of the simplest kind without endless and maudering, irrelevant and extremely wearisome details; and hardly any judge has the patience to sift out the grain of wheat from the bushels of chaff which are on such occasions put before him. A few questions would constantly clear up the whole, but the prisoner may not be questioned, and his liberty is constantly sacrificed to a groundless fear of invading it. I have seen judges again and again give the broadest hints to prisoners, which, if they had been

put in an interrogative form, might have been invaluable, but which, as they were made, were thrown away upon ignorance, fear, and stupidity. Let any one try to get an account of the simplest transaction from his servants or children without asking them questions, and he will appreciate in a moment the value of which interrogation would be to the prisoner. No one who has sensitive nerves himself can fail to be aware, that, on important occasions, a very slight cause may make him forget the most important part of what he has to say; and there is little doubt, that, when innocent men are convicted, it frequently arises from the fact, that, from ignorance or confusion, they have omitted to ask questions or to give explanations which might have cleared their character. In one of the cases referred to above, this would very possibly have been the case but for a well-timed question from the judge. Sir M. Hale asked a man why he objected to have his house searched? He immediately gave a satisfactory explanation. If he had, from ignorance or nervousness, forgotten this point, it might have weighed heavily with the jury.

One of the most distinguished advocates of the existing practice has observed, that "few things tell more strongly against a prisoner than his non-explanation of apparently criminating circumstances." The absence of any suggestion, either from the judge or jury, as to what circumstances require explanation, tells far more heavily against him if he is not defended, and that very skillfully. Even if he is defended, his silence exposes him to a degree of suspicion from which he was free when defences by counsel were not allowed. At that period the obligation to make a defence was an incomplete, and to the prisoner an unfavourable, substitute for interrogation, because it had a strong tendency to convict the guilty, though none at all to exculpate the innocent. The cases of Throckmorton and Udale show that if the prisoner's defence was made piecemeal to every branch of the charge, the trial slid of necessity into a prolonged interrogatory—a form of procedure which both of these able persons requested as a favour and indulgence to their weak memories. If, on the other hand, the prisoner defended himself, the jury would not listen to a mere contention that the evidence was consistent with his innocence, without a distinct assertion that in point of fact he was innocent. If Eugene Aram's defence had been pronounced by a barrister, he might very probably have been acquitted. But, coming as it did from the prisoner himself, the judge at once directed the attention of the jury to the fact that it was more like the ingenious reasoning of an advocate conscious of a bad cause than the bold denial of guilt which might be expected from an innocent man. Paley, who heard the trial, said of him that no man ever got himself hanged so cleverly. In Mr. Best's work it is observed, with great truth and force, that any item of the evidence is, in effect, a question to the prisoner. This is undoubtedly true, and it seems to me to follow inevitably that it is only fair to point out the fact to him in an unmistakable form.

The practice of interrogation would have the farther advantage of relieving honest advocates from a painful dilemma, and would prevent dishonest ones from setting up groundless defences. The duty of counsel at present is to find out any possible hypothesis by which the evidence may be made consistent with the prisoner's innocence, and to press that hypothesis upon the jury with all his power; for his criterion is, not that the prisoner is innocent, but that he is not proved to be guilty. I need not dwell upon the delicate cases of conscience to which this duty may give rise, but there can surely be no reason why this function should not be narrowed to that of showing that the prisoner's account of the evidence is consistent with innocence. It seems to me that the determination of the line of defence to be adopted ought, on every account, to be left to the prisoner. A prisoner was not long ago convicted, and on being called on in the usual manner, said, "My lord, I have three witnesses in court to prove I was not there." "Yes," said the judge, with considerable sternness; "and do you know why your counsel did not call those witnesses. It was because he did not believe them. Neither should I have believed them." No doubt the judge and the counsel were quite right in their opinion, but it is surely a strange morality which insists that one man shall invent a probable falsehood (I do not wish to use the word offensively) for fear that another should tell an improbable one which he had already invented. Let us suppose, for example, that in a late case, deservedly celebrated as a model of criminal procedure—I mean the trial of Palmer—the prisoner had been asked quietly and simply the following questions:—Did you buy any strychnine? If so, what did you want with it? Did Cook give you a cheque for his winnings? Did you send it to his agents, and did you receive it back from them? If so, where is

it? This last question was, in fact, though not in form, asked by a notice to produce, and the absence of an answer was one of the strongest circumstances against the prisoner.

It is usually objected that the sympathies of the judge would be enlisted against the prisoner by allowing him to ask him questions. This is, no doubt, a great and real danger; but we must remember that in England a judge has much less to do with the trial than in France—that we have the advantage of the strongest possible public sentiment against such unfairness, and that interrogation may be conducted in a friendly as well as in an unfriendly spirit. It might, however, be observed, that if we are to assume the existence of injustice and prejudice in judges, those qualities now find ample means of gratifying themselves. Under our existing system, a partial charge to the jury would do the business effectively. Interrogation has not been, in this country, the favourite weapon of unjust judges. In the horrible case of *Lady Lisle*, whilst the judge was raging and blaspheming like a wild beast, though he frequently interrupted the prisoner's defence with oaths and curses, he never questioned her once. A just and humane judge would not condescend to fence with a common criminal, and the practice might, if necessary, be prohibited in political cases. At any rate, no such objection would apply to the jury. The jury might suggest questions, and the judge might put them. Even the counsel for the Crown might be trusted with such a power to question the prisoner only upon points which other witnesses had shown to be within his knowledge. Did you do such a thing? Were you at such a place?—and as to the motives of the conduct which he admitted. In a word, his defence might be elicited by means of questions, instead of leaving him to make it for himself, or allowing his counsel to make it for him; liberty, of course, being left to the defendant or his counsel of adding whatever he pleased.

We must suit our reforms to our institutions. Trial by jury no one proposes to modify. We must, therefore, admit no evidence the force of which ordinary minds cannot appreciate; and the mere facts that a person cannot give a consistent account of the manner in which his time was spent, or that he tells falsehoods about collateral matters, when under the burden of an accusation, are circumstances so remote from the question of guilt or innocence that they ought not to be placed before such a tribunal as a jury. They have, no doubt, some reference to guilt, and so have early education and general character; but it would be as foolish to ask twelve shopkeepers or farmers whether these things were consistent with innocence, as it would be to weigh out the drugs of a prescription in a grocer's scales. On the other hand, the power of giving some general account of the circumstances which have produced a criminal charge is so usually the characteristic of innocence, and so seldom the companion of guilt, that its existence ought to be placed before juries as distinctly as possible. Further, our present procedure does, in fact, place the prisoner's statement before the jury, but it does so in a manner so clumsy and indirect as to give no great benefit to any one, and to inflict the greatest possible inconvenience upon the innocent.

The next meeting of this Society will be held on Monday, the 8th instant, at 8 o'clock P.M., the Hon. Vice-Chancellor Sir John Stuart, President of the Society, in the chair, when Mr. W. M. Best will read a paper on "The Common Law of England, with an Examination of some False Principles of Law Reform."

Questions at the Examination.

TRINITY TERM, 1857.

I. PRELIMINARY.

1. Where, and with whom, did you serve your clerkship?
2. State the particular branch or branches of the law to which you have principally applied yourself during your clerkship.
3. Mention some of the principal law books which you have read and studied.
4. Have you attended any, and what, law lectures?

II. COMMON AND STATUTE LAW AND PRACTICE OF THE COURTS.

5. State the distinction between actions of contract and of tort; and between simple contract and specialty debts.
6. What is the proper mode of suing on a bill of exchange or promissory note, with respect to indorsing the writ of summons,

the time for signing judgment for want of appearance, and obtaining leave to appear and defend?

7. Which of the parties to a bill of exchange is *primarily* liable to pay it; and how is this liability affected by the bill being accepted for accommodation?

8. What is the difference between libel and slander?

9. By whom are replevins now granted; and in what court may an action of replevin be commenced?

10. Where an action is brought in a superior court to recover a less sum than £20, due upon a contract, what course must be taken to enable the plaintiff, if he succeeds, to recover his costs; and on what scale will such costs be taxed?

11. In what manner may judgment be signed for non-appearance to a writ specially indorsed; and where one of two defendants upon whom such a writ has been served appears, and the other does not, how may the plaintiff proceed?

12. In what cases is a master responsible in damages for a tortious injury done by his servant; and how may his liability be altered by the fact of the injured party being also his servant?

13. What step is it necessary for an attorney to take before he can bring an action for his bill of costs?

14. What notice to quit is generally required in order to determine a yearly tenancy, and to what period of the year must it refer?

15. At what time after verdict may a successful party sign judgment and issue execution?

16. In what cases, and under what circumstances, may a party appeal from the decision of a superior court upon a motion for a new trial, or to enter a verdict pursuant to leave reserved; and what notice of appeal must be given, and to whom?

17. In what manner may a judgment obtained against a registered joint-stock company be enforced against a shareholder?

18. With what exceptions may the parties or their wives be examined as witnesses in their own causes?

19. Is it necessary to call an attesting witness to prove any, and what, species of written instrument?

III. CONVEYANCING.

20. By what means are the respective species of property usually conveyed or transferred?

21. If land be conveyed, and no mention of the buildings thereon, nor of mines or minerals thereunder, would such buildings, mines, and minerals pass by the conveyance? What is the rule in such cases?

22. Suppose a pool or piece of water be granted, what passes to the grantee?

23. Under what authority may an estate tail be now barred, by whom, in what manner?

24. What are emblements, and when is a lessee of a tenant for life entitled to emblements, and when not?

25. What is the difference between a *jointure* and a *dower*, and how does each arise?

26. A. holds a lease for several lives, and he makes under-leases; upon the death of one of the lives, he wishes to surrender the existing lease, and to have a new lease for the existing lives, with the addition of one in the place of the deceased. Would it be necessary that the under-lessees concur in that surrender, or not?

27. A testator appoints C. and D. executors of his will; C. renounces, and D. proves the will alone, and has probate; D. dies in the lifetime of C.; how stands the representation to the testator, and how is an assignment to be obtained from a legal representative?

28. The mortgagee in fee dies without devising the security, the mortgagor is desirous to pay the money; the heir-at-law of the mortgagee is unwilling or incapable to reconvey; to whom may the mortgagor pay the money, and of whom obtain the reconveyance?

29. As to the registering of deeds affecting property in registered counties, what may be the consequence from delaying to register such deeds?

30. Title-deeds abstracted, but not in the vendor's possession but in the hands of other persons, how are such deeds to be examined, and at whose expense?

31. What is the distinction between estates in remainder, and estates in reversion?

32. Two persons, A. and B. (not partners), are to give bond to C. for the payment of a certain sum of money; what should be the obligation so that if B. die and leave A. surviving, C. may have a claim upon B.'s estate?

33. Suppose A. and B. are partners, and give their joint bond to C., and A. or B. die, what remedy would C. have against the survivor, and the estate of the deceased?

34. Suppose one of the joint and several obligors to be merely a guarantee for the other, what should such guarantee require from the co-obligor for his security?

IV. EQUITY AND PRACTICE OF THE COURTS.

35. Mention some of the ordinary cases in which the Court of Chancery exercises jurisdiction as distinguished from the courts of law.

36. When a mortgagee enters into possession of the mortgaged estate, what is the proper proceeding to be taken by the mortgagor desirous of redeeming the mortgage; and is there any, and what, limit to the period within which such proceeding must be commenced?

37. If a legal estate be outstanding in an infant, or a person of unsound mind, as a trustee, state the nature and effects of the summary proceeding to be taken under the Trustee Act for getting in the legal estate.

38. Refer to any recent Act of Parliament under which the Court of Chancery (notwithstanding the absence of a power in the settlement) can authorise a sale or lease of settled estates without a special application to Parliament.

39. State shortly the circumstances in which the Court is, by the Act referred to, authorised to exercise jurisdiction, and the mode of proceeding.

40. What are the several modes in which the parties, plaintiffs and defendants, in a suit in Chancery, may adduce evidence to verify their respective cases for the hearing of the cause?

41. How should an affidavit to be used in the Court of Chancery distinguish facts or circumstances which are within the deponent's own knowledge, from those which are deposited to from his information and belief; and is it necessary to show, upon the affidavit, what are the deponent's means of knowledge or source of information.

42. If no interrogatories be filed requiring an answer by a defendant to a bill, is he at liberty within any, and what, time to put in a voluntary answer?

43. Where a defendant is not required to answer interrogatories, what is considered to be the effect of not putting in a voluntary answer?

44. State the respective amounts of principal money and in annual payments which, if payable out of a fund under the control of the Court to a married woman, entitle her to elect whether the amount shall be paid to her husband, or be made the subject of settlement.

45. If the married woman elect that the amount shall be paid to her husband, what is the mode of proceeding, and what evidence is necessary to obtain the order for such payment?

46. If before distributing the residue of a deceased's estate, an executor or administrator be desirous of being indemnified from unascertained debts and liabilities, is there any, and what, summary proceeding which he can take for this purpose without instituting a suit?

47. By what instruments can a father appoint a guardian to his children, and what are the ordinary powers and duties of such guardian?

48. In the absence of a guardian so appointed, what is the summary course of proceeding after the father's death for the appointment of a guardian, and procuring an allowance for the infant's maintenance.

49. State shortly the mode of proceeding by which a trustee may be relieved from the responsibility of administering trust-funds without instituting a suit?

V. BANKRUPTCY AND PRACTICE OF THE COURTS.

50. State briefly the principle of the bankrupt laws, and the relief which they afford.

51. What are the three conditions necessary to constitute a Bankruptcy?

52. What persons have been deemed by the Courts liable to the bankrupt laws?

53. State the principle which determines whether a person is a trader within the meaning of the bankrupt laws.

54. Distinguish those acts which constitute acts of bankruptcy only when coupled with an intention on the part of the debtor to defeat or delay creditors, from those which constitute acts of bankruptcy independent of such intention.

55. Distinguish those acts which are voluntary or active from those which are passive or merely omissions on the part of the debtor.

56. What is the course to be adopted for obtaining an ad-

judication of bankruptcy against a member of Parliament, and what constitutes his liability?

57. What are the necessary facts regarding the bankrupt's estate to be ascertained, and steps to be taken, previous to filing a petition for adjudication?

58. What is the course of proceeding to obtain adjudication against a joint-stock company?

59. What are the facts necessary to be stated in the petitioning creditor's affidavit of debt?

60. How must creditors prove their debts, and at what meetings, in order to become entitled to a dividend? and what, if any thing, must be given up to entitle a creditor to a dividend?

61. Is there any distinction between mortgages of land and mortgages of personal property, as respects the relative rights of the mortgagees and assignees? and if so, upon what principle is such distinction made?

62. What proceedings must be taken by the assignees before commencing an action, or suit, or before a reference to arbitration?

63. What are the general rules with regard to the property of the bankrupt in the possession of others at the time of the bankruptcy?

64. Can any, and what, number of creditors, and how, bind the rest to accept a composition, and by what different modes of proceeding?

VI. CRIMINAL LAW AND PROCEEDINGS BEFORE MAGISTRATES.

65. Have all the superior courts at Westminster a concurrent jurisdiction in criminal matters, or is it confined to any, and which of them, and who is the supreme coroner of the realm?

66. Over what places does the jurisdiction of the Central Criminal Court extend?

67. State the nature and jurisdiction of the Court of Quarter Sessions.

68. What is the Court of Petty Sessions? and state what is the general nature of business transacted at petty sessions.

69. How are offences which are subject to indictment at the suit of the Crown divided in the English law, and in what respects do they differ from civil injuries?

70. What is felony in the general acceptation of the English law?

71. Define accurately and concisely the common law offence of perjury.

72. What number of witnesses is necessary to obtain a conviction for perjury, and why?

73. What is subornation of perjury?

74. State the course of proceeding against a person accused of an offence in order to bring him to trial.

75. Can one or more magistrates admit to bail persons accused of felony?

76. May the Court of Queen's Bench, or a Judge in vacation, admit a prisoner to bail in any, and what, cases?

77. What is an indictment, and state the mode of preferring, and shortly the material parts of an indictment?

78. What is the nature of a criminal information? and in what way or ways must it originate?

79. State what, if any, are the conditions which the Court of Queen's Bench requires before granting a rule in a criminal information at the instance of a private prosecutor?

Pending Measures of Law Reform.

FRAUDULENT TRUSTEES BILL.

A trustee (s. 1) of any property, who shall, with intent to defraud, appropriate, &c., such property, or any part thereof, to his own benefit, shall be guilty of a misdemeanor. A banker, merchant, broker, attorney, or agent (s. 2), being intrusted as such with the property of any other person, who shall, with intent to defraud, employ, &c., for his own use such property, or any part thereof, shall be guilty of a misdemeanor. Any person (s. 3) intrusted with any power of attorney for the sale or transfer of any property, fraudulently selling, &c., such property, or any part thereof, to his own use, shall be guilty of a misdemeanor.

Sects. 4, 5, and 6 are similar clauses, applying to bailiffs and directors, &c., of companies. By s. 7, if any director, manager, public officer, or member of any company, shall wilfully destroy or falsify any of the books, &c., belonging to the company of which he is a director or manager, public officer, or member, or make, or be privy to the making of, any false or fraudulent entry, or any fraudulent omission in any book of account or

other document, with intent to defraud the shareholders, creditors, or other persons interested in the property or effects of such company, every director* so offending shall be deemed guilty of a misdemeanor; and whosoever (s. 8) being a director, manager, or public officer of any company, shall wilfully make or publish, or concur in wilfully making, &c., any written statement which he shall know to be false in any material particular, with intent to defraud any member, shareholder, or creditor of such company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any money or property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanor.

Sect. 9 defines the punishment of offenders. Nothing in this Act contained (s. 10) shall enable any person to refuse to make a full discovery to a bill in equity, or to answer any question in any civil proceeding in any court; but no answer to any such bill or interrogatory shall be admissible in evidence against such person in any proceeding under this Act. No remedy (s. 11) at law or in equity shall be affected; and convictions are not to be received in evidence in civil suits. No prosecution (s. 12) is to be commenced without the sanction of some Judge or the Attorney-General. Receivers of property (s. 13) fraudulently disposed of, against this Act, are to be guilty of a misdemeanor.

The word "trustee" (s. 16) includes the heir and personal representative of any trustee, and also all executors and administrators, and all assignees in bankruptcy and insolvency, bailees of goods, and every person holding or having the disposition of any property for the benefit of another; and the word "property" includes every description of real and personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods; and such word "property" also denotes not only such real and personal property as may have been the original subject of a trust, but also any real or personal property into which the same may have been converted or exchanged, and the proceeds thereof respectively, and anything acquired by such proceeds.

JOINT-STOCK COMPANIES BILL.

This Bill is intitled a Bill to amend the Act 7 & 8 Viet. c. 111, for facilitating the winding up the affairs of joint-stock companies unable to meet their pecuniary engagements, and also the "Joint-Stock Companies Winding-up Acts, 1848 and 1849."

The 1st section proposes to enact that in all cases in which an order is made for the winding up of any company, it shall be lawful for the judge by advertisement to call meetings of creditors to appoint their Representatives (other than the official manager), to be elected by two-thirds in value of the creditors present, who would be entitled to vote in the choice of assignees under a bankruptcy. The proceedings of such meeting to be conducted before the judge as in the election of assignees in bankruptcy, but the judge may reject or remove any unfit person, and upon such rejection or removal a new choice of a Representative shall be made in like manner; and from and after the issuing of any such advertisement, all the creditors of the company shall be deemed parties to the winding up; but in case such company has been adjudged bankrupt, the assignees of the estate and effects of such bankrupt company shall be (without such advertisement or meeting) the Representatives of the creditors for the purposes of this Act, and exercise the same rights and powers as are thereby given to such Representatives; and if any such Representatives of the creditors shall have been appointed in the matter of the winding up of any company before the appointment of assignees under the adjudication of bankruptcy against the same company, then the rights of such Representatives shall upon the appointment of assignees determine, and the same rights shall thereupon become vested in such assignees.

Under s. 2, where a company is bankrupt, and no winding-up order has been made, the assignees may, with the leave of the Court of Bankruptcy, compromise with shareholders so as to bind all the creditors; and the said Court shall, at the request of the assignees for the time being of such company, give to the several shareholders and members, or such of them as shall be so discharged, a certificate setting forth the circumstances of

such discharge, and such certificate shall thenceforth operate as an absolute release.

The said Representatives of creditors (s. 3) may concur in proceedings and in compromises which the official manager may propose to make either with the debtors or creditors or with the contributories; and all the creditors of the said company, whether their debts have been then proved or not, shall, subject to the provisions thereafter contained, be fully and effectually bound by the acts of such representative as to all matters authorised by this Act. But (s. 4) the compromise, &c., to be subject to consent of creditors, if required by the judge, and (s. 5) proceedings under this Act are subject to appeal. Creditors' rights (s. 6) against third persons are not to be prejudiced. After advertisements (s. 7) for Representative, creditors not to sue at law without leave of judge, and time is not to run against them.

Under s. 8, the Court may require security from a shareholder, for payment of such sum as it shall require, having regard to the debts and liabilities of such company.

Sect. 9 gives creditors liberty to attend proceedings and inspect books of company. By s. 10, orders for payment of money are to be incumbrances in Ireland within 13 & 14 Viet. c. 29.

Sect. 11 gives the judge power to appoint commissioners for receiving evidence. This Act (s. 12) is to be taken as a part of the "Joint-Stock Companies Winding-up Acts, 1848 and 1849," and (s. 13) the words "shareholder" and "member" are to include all contributories or alleged contributories.

Parliamentary Proceedings.

HOUSE OF LORDS.

Thursday, June 4.

DIVORCE AND MATRIMONIAL CAUSES BILL.

The report of this Bill, with amendments, was received, after some observations by Lord BROUGHAM condemnatory of the new species of divorce invented by their Lordships, and which he intimated his intention of opposing.

The Bill was ordered to be recommitted on June 9th.

ADMINISTRATION OF OATHS TO WITNESSES.

LORD CAMPBELL, in moving the consideration of the report of the select committee on this subject, said the committee unanimously recommended the discontinuation of the practice of tendering oaths to a witness who came to speak only to matters of opinion. But where there were contested facts and conflicting evidence, the committee considered that it was just as necessary to administer an oath to witnesses who came to depose to matters of fact in a committee of their Lordships' House on a private Bill as it was in any court of law in the kingdom. He concluded by moving—"That select committees in future shall examine witnesses without their having been previously sworn, except in cases in which it may be otherwise ordered by the House;" and "That all committees on private Bills shall examine witnesses on oath, except in cases in which it may be otherwise ordered by the House."

The resolutions were put and agreed to.

HOUSE OF COMMONS.

Friday, May 29.

JOINT-STOCK COMPANIES ACT AMENDMENT BILL.

MR. LOWE moved for leave to bring in a Bill to amend the Joint-Stock Companies Act of 1856. This measure was intended to cure certain difficulties which had arisen in the construction of the Act of last session; and to compel companies to come in under the Act which had not yet done so, and thereby to prevent two distinct systems of law from co-existing on the same subject.

Leave was granted, and the Bill was read a first time.

Thursday, June 4.

PROPERTY OF MARRIED WOMEN.

MR. MALINS, in moving for leave to bring in a Bill to enable married women to dispose of reversionary interests in personal estate, stated that its object was to give married women the right to dispose of personal property in reversion in the same manner and with the same ceremonies as they had now the right to dispose of real property.

The ATTORNEY-GENERAL thought that this Bill would remove a great anomaly, which was not, in truth, a legitimate deduction from the law of England, but which had grown up out of a decision now too old and too frequently followed to be reversed by anything but parliamentary interference. The

* There appears to be an oversight here in not again repeating the words "manager, public officer, or member." From the preceding part of the section, the intention of the draughtsman was manifestly to make them capable of the same crime as a director, though, in the concluding words of the clause, it is said only that "every director so offending shall be deemed guilty of a misdemeanor."

result of this anomaly was that a married woman might be the owner of the reversion of £40,000 or £50,000 contingent on her outliving her husband, and yet not be able to raise a shilling for her immediate use.

Leave was given, and the Bill was read a first time.

JOINT-STOCK COMPANIES BILL.

This Bill went into committee *pro forma*, when certain amendments were introduced, and it was ordered to be recommitted on Monday next.

JOINT-STOCK COMPANIES ACT AMENDMENT BILL.

This Bill was read a second time, and ordered to be committed on Monday next.

PRIVATE BILLS.

The House met again on Thursday last, and committees on fifteen groups of opposed Bills have been sitting.

The Mersey Conservancy Bill is still occupying the attention of the Liverpool Committee, and is likely to last another week. If the preamble of that Bill is proved, the other Bills in the group will virtually be negated. The "Drainage" Committees, as usual, have their hands full. "The Mordon Cars Drainage Bill" is still under consideration, and after many days sitting the promoters have nearly completed their case. The opponents, no doubt, will occupy a long time. The same story may be told of the North Leeds Drainage Bill, in which case the opponents have only just commenced. Those "gentlemen of England" who live in hilly counties little know the amount of litigation and parliamentary contests which are involved in settling the drainage of districts where there is no outfall for the water.

In the Railway Committees, some cases appear to have become stock pieces, and are likely to run as many days as a favourite drama at a minor theatre.

The Broad and Narrow Gauge fight is going on as steadily as ever, though it is supposed that the Southampton, Bristol, and South Wales (Broad Gauge) Bill evidence will be completed about Tuesday afternoon. Then will come the case of the opposing landowners, which will occupy some two days. Then the committee will consider the case of the Severn Ferry Bill, the "Bristol, South Wales, and Southampton," which is the middle link of the broad gauge case, before giving any decision. The Committee on Group 5 have passed the Wimbledon and Dorking Railway Bill in the teeth of the London and Brighton, and London and South Western Railway Companies, who were the only opponents. The scheme is for making a line from Wimbledon to Epsom, and the committee have taken the broad view that the public will be benefited, and have set their faces against vested interests. The Ely Tidal Harbour and Railway Bill is still in progress. It commenced a fortnight since, and the promoters' case is not yet concluded. The Shropshire Union Railway and Canal Bill, which contains power to lease the canal (for the purposes of abandonment) to the North Western Railway Company, is being sharply contested. And in Group 11, the struggle between the Great Northern and North Western Companies which is taking place over the Lancaster and Carlisle and Ingleden Railway, does not diminish, in spite of the heat of the weather, and the dryness of the case.

The railway mania has strongly attacked Ireland, and the Great Southern and Western, and Midland Great Western Railway of Ireland Companies are struggling hard respectively for powers to connect their two railways by a junction, commencing at Tullamore. The contest between them is as to the point in the Great Southern and Western, from which one end of the junction shall commence, and each company is striving to have its own way in the matter.

The committee on the Kent Railway Group met on Thursday, and the first Bill considered was the Herne Bay and Faversham branch. This branch is supposed to be a feeler put forth by the East Kent Railway Company for a short cut to Ramsgate and Margate. The opponents, as usual, are the South Eastern Railway Company; who, it is well known, have a railway which affords the passenger a beautiful view of parts of Surrey and Sussex *en route* to Dover or Canterbury. The fineness of views, however, in these commercial days, hardly compensates the railway traveller for being carried about to every part of the county *except the part he wishes to go to*, viz.—the centre of Kent. A million of money has been sunk first and last in the Kent fights, and it is hoped that the committee will break down the monopoly which exists in the county as regards railways.

In group 6, Mr. Redpath's delinquencies are causing a great deal of trouble, as the Great Northern Railway Bill, the pur-

port of which is to provide a means of paying off the £200,000 for which the Company have become liable in consequence of Mr. Redpath's taste for old china and country houses and articles of virtue, is strongly opposed by some of the holders of guaranteed preference shares. In fact it is a shareholders' quarrel.

The Election Committees are about to be nominated; as the Chairmen's panel was struck on Thursday night, and the reports on the recognizances have gone in, we may shortly expect notice of the committees being named.

There is a talk of some of the Committees rising on Thursday—the Cup day at Ascot—but it is hoped that hon. members will have some consideration for the expense of keeping up all the witnesses now in London longer than necessary.

Court Papers.

Queen's Bench.

NEW CASES.—TRINITY TERM, 1857.

- Cumberland. The Queen on the Prosecution of the Carlisle Board of Health, Respondents, *v.* Thomas H. Hodgson, Appellant.
 " The Queen on the Prosecution of the same, Respondents, *v.* David Wilkie, Appellant.
 " The Queen on the Prosecution of the same, Respondents, *v.* Thomas H. Redin, Appellant.
 Staffordshire. The Queen on the Prosecution of James Mann, Respondent, *v.* Thomas Bourne, Appellant.
 Cambridge. The Queen *v.* The Guardians of the Poor of the Cambridge Union.

Saturday, June 6.

- Durham. The Queen *v.* The Durham Markets Co.
 Surrey. The Queen *v.* The Board of Works for St. Olave, Southwark.
 Norwich. The Queen on the Prosecution of Norwich Waterworks Co. Respondents, *v.* John B. Snowden and Two Others, Appellants.
 Middlesex. The Queen on the Prosecution of the Vestrymen of St. Marylebone, Respondents, *v.* The Royal Medical and Chirurgical Society of London, Appellants.
 Derbyshire. The Queen *v.* William Wake.
 Portsmouth. The Queen *v.* Alexander Stewart.
 " The Queen *v.* Edward Edwards.
 " The Queen *v.* John J. Lake.
 " The Queen *v.* Edward Stainsby.
 " The Queen *v.* Henry William Breton.
 " The Queen *v.* Thomas Foster.
 Oxfordshire. The Queen *v.* Richard Woods.
 Cumberland. The Queen on the Prosecution of John Bird, Respondent, *v.* F. Henry Howard, Appellant.
 Glamorgan. The Queen on the Prosecution of Cardiff Local Board of Health, Respondent, *v.* The Taff Vale Railway Company, Appellants.
 " The Queen on the Prosecution of the same *v.* The same.

SPECIAL PAPER.

Dem. The London Dock Company *v.* Sinnott.
 Sp. Case. M'Turk, Executor, &c., *v.* The Local Board of Health in Kingston-upon-Hull.

Dem. Elder *v.* Beaumont and Another.

This Court will, on Saturday the 13th, Monday the 15th, Tuesday the 16th, Wednesday the 17th, Tuesday the 23rd, Wednesday the 24th, Thursday the 25th, and Friday, the 26th days of June instant, hold sittings, and will, at such sittings, commence with the Country New Trials then pending in the New Trial Paper, after which the Court will proceed with the Special Paper; and, if there be any time remaining, the Crown Paper will then be taken.

The Court will also hold a Sitting on Saturday the 4th day of July next, for the purpose of giving judgments only.

Common Pleas.

NEW CASES.—TRINITY TERM, 1857.

DEMURRER PAPER.

- Dem. Kempton *v.* Theobald and Another.
 Ca. by order. Egerton and Ux. *v.* Massey and Others.
 Dem. by order. Sinnott *v.* The Board of Works for the Whitechapel District.
 Dem. by order. Burgess and Others *v.* The Wimbledon and Croydon Railway Company.

NEW TRIAL PAPER.

Middlesex. Bennett and Others *v.* Herring and Others.

Cyrcuquer of Pleas.

NEW CASE.—TRINITY TERM, 1857.

SPECIAL PAPER.

Dem. Callenan *v.* Preston.

Births, Marriages, and Deaths.

BIRTH.

FISHER—On May 29, at 43 Gloucester-pl., Portman-sq., the wife of William Richard Fisher, Esq., barrister-at-law, of a son.

MARRIAGES.

DAY—PAUL—On May 28, at Wigston, near Leicester, George Newton Day, Esq., of St. Ives's, Hunts, solicitor, to Elizabeth Mary, only daughter of Thomas Dennis Paul, Esq., of Stonygate, near Leicester.

M'COAN—JENKINS—On June 2, at All Souls, Langham-pl., James Carlisle M'Coan, Esq., of the Middle Temple, barrister-at-law, to Augusta Janet, the youngest daughter of Wm. Jenkins, Esq., of Elgin, J. P., and granddaughter of the late General Robertson, of Strowan, Perthshire.

TYNDALL—TYNDALL—On June 3, at the parish church, Clifton, by the Rev. Graham Tyndall, cousin of the bride, Charles Mahon Tyndall, Esq., barrister-at-law, to Louisa Miriam Sophia, eldest daughter of the late Edward Tyndall, Esq., Lieut. R.N.

DEATHS.

BOLLAND—On April 26, near Jerusalem, in the 33rd year of his age, the Rev. John Bolland, youngest son of the late Baron Bolland.
BROOMHEAD—On June 2, at Paradise-sq., Sheffield, Henry Broomhead, Esq., solicitor, in the 68th year of his age.
HOLMES—On May 28, at Bowden, near Manchester, Edward Holmes, Esq., M.A., of the Middle Temple, barrister-at-law, eldest son of the late T. R. Holmes, Esq., of Bury St. Edmunds.
MALTON—On May 28, at Montpelier-rd., Peckham-rye, in his 73rd year, Mr. James Malton, forty years confidential clerk to the late Lord Chief Justice Tindal.
MILLER—On May 30, suddenly, at 17 Bedford-pl., Russell-sq., Jane Matilda, the wife of Mr. Serjeant Miller.
SMITH—On May 28, at his residence, 2 Gray's-inn-pl., in his 83rd year, Joseph Smith, Esq., barrister-at-law, F.R.S. and F.L.S., for upwards of fifty years an inhabitant of Gray's-inn.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

ADAMS, MARY ANN, Maidenhead, Berks, spinster, £300 New 3 per Cents.—Claimed by MARY ANN ADAMS.
EDWARDS, WILLIAM, Ashbocking, Suffolk, gent., £300 New 3 per Cents.—Claimed by JOHN EDWARDS, GEORGE LORD EDWARDS, and CHARLES STANFORD, the executors.
FOXHALL, EDWARD MARTIN, South Audley-st., architect, ELIZABETH ANN FOXHALL, CATHERINE FOXHALL, and ELISABETH FOXHALL, all of Grove-end-pl., St. John's-wood-rd., spinsters, £319 : 15 : 9 Consols.—Claimed by EDWARD MARTIN FOXHALL, ELIZABETH ANN FOXHALL, and CATHERINE FOXHALL, the survivors.
GROVES, JOSEPH, Bishopsgate-st. Without, deceased, £200 New 3 per Cents.—Claimed by WALTER ANDERSON PEAOCK, SAMUEL GRIMSDALL, and JOSEPH GROVES, the persons named in the order of the Court of Chancery.
HARVEY, THOMAS, Westmoreland, Jamaica, planter, £441 : 13 : 10 New 3 per Cents.—Claimed by CHARLES BRAINE, sen., the administrator.
HUME, ANNE, Cheltenham, widow, £180 Consols.—Claimed by Rev. GEORGE HUME and Rev. JOHN SHULDHAM, acting executors.
IRELAND, ELIZABETH MARY, Owsden-hall, Newmarket, spinster, £50 Consols.—Claimed by ELIZABETH MARY JACKSON, wife of WELBY BROWNE JACKSON (formerly ELIZABETH MARY IRELAND, spinster).
MATHISON, GILBERT FARQUHAR, Royal Mint, Esq., £50 New 3 per Cents.—Claimed by JASPER TAYLOR HALL, acting executor.
PEACHEY, Right Hon. JOHN, Newsells, Hertfordshire (afterwards Lord SELBY), and BRESTON LONG, Bishopsgate-st., Esq., £533 : 6 : 8 Reduced.—Claimed by Rev. CHARLES MATLAND LONG, administrator, as the attorney of SAMUEL LONG, sole executor of the Right Hon. CHARLES LORD FARNBOROUGH (formerly Sir CHARLES LONG, Knt.), surviving executor of BRESTON LONG, the survivor.
PERKINS, HENRY, Harworth-park, Middlesex, Esq., £535 : 10 New 3 per Cents.—Claimed by FREDERICK PERKINS, ALGERNON PERKINS, and THOMAS FREDERICK MARSON, the acting executors.
POLYBLANK, WILLIAM, Tyto, stationer, £100 Consols.—Claimed by MARY POLYBLANK, widow, sole executrix.
STYKE, MARY, Ladbroke-vll., Chittemham, widow, deceased, £400 New 3 per Cents.—Claimed by MARY ANN STYKE, spinster, sole executrix.
TANNER, ANNA MARIA, Seaton, Devonshire, widow, £98 : 2 : 1 Reduced.—Claimed by ANNA MARIA TANNER.
WILLIAMS, DAVID THEODORE, Dean-lodge, Edinburgh, Gent., RICHARD TWINING, jun., and SAMUEL HARVEY TWINING, Strand, bankers, £51 : 15 : 6 Consols.—Claimed by RICHARD TWINING, jun., and SAMUEL HARVEY TWINING.
WOODWARD, THOMAS CHARLES, Andover, Hants, surgeon, £187 : 7 : 5.—Claimed by SOPHIA WOODWARD, widow, and Rev. GEORGE WATSON SMYTH, clerk, executors.

Heirs at Law and Next of Kin

Advertised for in the London Gazette and elsewhere during the Week.

EASTWOOD, EDWARD (who died in Sept., 1849), Gent., formerly of South-st., Toxteth-park, Liverpool, and afterwards of Upper Parliament-st., Liverpool. His next of kin or their legal personal representatives to come in and make out their claims on or before June 30, before James Winckworth Winstanley, Esq., District Registrar, 1 North John-st., Liverpool.
HILL, CHARLES DICKINSON, a lunatic, formerly residing at Redcliffe-parade, Bristol, and now at Hanham, Gloucestershire.—His heirs at law or next of kin to come in and prove their heirship or kindred on or before July 1, before the Masters in Lunacy, 45 Lincoln's-inn-fields. The said C. D. Hill is the only son of JOHN BARTLETT HILL, formerly of Redcliffe-parade and Hanham, by MARY, his wife, formerly MARY CRESWICK, spinster, who were married on Nov. 30, 1797.
PARKINSON, MARY (who died in Nov., 1856), Widow, Liverpool, and ESTHER ELLIOT, late wife of THOMAS ELLIOT, Liverpool, deceased, which ESTHER ELLIOT died in May, 1847. Their heirs at law and next of kin, or their legal personal representatives, to come in and make out their claims on or before June 30, before James Winckworth Winstanley, Esq., District Registrar, 1 North John-st., Liverpool. MARY PARKINSON and ESTHER ELLIOT were the sisters of EDWARD EASTWOOD, formerly of South-st., Toxteth-park, Liverpool, and afterwards of Upper Parliament-st., Liverpool, Gent., who died in Sept., 1849.
WALL, EDWARD (formerly of Kilkenny, in Ireland, and afterwards of London).—His nephews and nieces who were living at the death of his widow, FRANCES WALL (who died on Dec. 15, 1842), or the legal personal representatives of such nephews and nieces who attained twenty-one years, or have since died, are to come in and prove their claims on or before July 10, at Master of the Rolls' Chambers. EDWARD WALL married FRANCES NOTT, and entered the service of Mr. THOMAS PHILLIPS, of Newington-pl., Surrey, as a Gardener, and subsequently resided in King-st., Walworth-com., until his death in May, 1819.

Money Market.

CITY, FRIDAY EVENING.

The English Funds have shown little variation during the present week. There has been a better feeling to-day than yesterday, and Consols have closed at $\frac{1}{4}$ per cent advance. Compared with this day week the price is about the same. The French Three per Cents have been variable. The result is a depression of about $\frac{1}{4}$ per cent. in the week. Other Foreign Securities have been heavy and generally depressed. The purchase of Exchequer Bills by the Government is discontinued, and those securities for the month of June are quoted at 3s. to 4s. discount. Uncertainty as to the intentions of the directors of the Bank of England regarding loans was dispelled on Tuesday by the announcement that they will make advances during the approaching shutting of Consols at $6\frac{1}{2}$ per cent. These advances will be made upon Government securities of all kinds, and upon India bonds. This accommodation will be discontinued as soon as the books are re-opened. The receipts of bullion have been large. The Parana from Mexico and the West Indies alone brought £632,500, and the arrivals reported from Australia amount to more than an equal sum. On the other hand, it appears the Indus for China and the East Indies has taken all that could be prepared in time, amounting to about £700,000, and that orders for the next mail are equally extensive. The heavy payments of this week, including those incidental to the settlement at the Stock Exchange, which took place yesterday, have been well met, but not without evidence of an extensive demand for money on the part of speculators for the rise. Generally the demand for money has been remarkably active. From the Bank of England return for the week ending the 30th May, 1857, which we give below, it appears that the amount of notes in circulation is £19,077,475, being an increase of £45,995, and the stock of bullion in both departments is £10,032,402, showing an increase of £227,575 when compared with the previous return.

The arrivals of grain from abroad have been plentiful, and have checked the advance in price previously reported. Accounts from foreign corn markets show that stocks of grain are not large, and that prices are firm. Spain and Portugal are again requiring the importation of grain. The winter and spring demand ceased some time back. Within the last fortnight it has revived, but their harvest is soon coming. The excise statements for the first quarter of the present year have been issued, by which a considerable increase is shown in the quantities retained for home consumption of malt, paper, and spirits. Spanish wine and British spirits arrive in large quantities in France. The accounts from the vine-growing districts of France are more favourable than from those of Spain and Portugal, and hold out some expectation of relieving the people of France from the necessity of using the wine and spirits of other countries to replace the deficiencies in their own produce.

A return published by the Board of Trade of the declared value of British and Irish produce exported from the United Kingdom during the first quarter of the present year, gives the following view of the order in which some of our customers take rank. British possessions receive about £8,000,000 of our produce. The United States above £6,000,000. Germany, including Prussia and the Hanse Towns, nearly £2,700,000. France, about £1,600,000. Holland, £1,300,000. Brazil, nearly £1,300,000.

Bank of England.

AN ACCOUNT, PURSUANT TO THE ACT 7TH AND 8TH VICTORIA, C. 32, FOR THE WEEK ENDING ON SATURDAY, THE 30TH DAY OF MAY, 1857.

ISSUE DEPARTMENT.

	£		£
Notes issued	23,801,395	Government Debt	11,015,100
		Other Securities	3,459,900
		Gold Coin and Bullion	9,326,395
		Silver Bullion	...
	£23,801,395		£23,801,395

BANKING DEPARTMENT.

	£		£
Proprietors' Capital	14,553,000	Government Securities	
Reserve	3,302,357	(incl. Dead Weight Annuity)	10,326,131
Public Deposits (including Exchequer, Savings' Banks, Commissioners of National Debt, and Dividend Accounts)	6,264,419	Other Securities	18,302,575
Other Deposits	9,225,549	Notes	4,723,920
Seven day & other Bills	713,308	Gold and Silver Coin	706,007
	£34,058,623		£34,058,623

Dated the 4th day of June, 1857.

M. MARSHALL, Chief Cashier.

English Funds.

ENGLISH FUNDS.	Sat.	Mon.	Tues.	Wed.	Thur.	Fri.
Bank Stock	212 14	213 1	212 1	213 13	212 14	213
3 per Cent. Red. Ann.	92 1	92 1	92 1	92 1	92 1	92 1
3 per Cent. Cons. Ann.	93 1	94 1	94 1	93 1	93 1	94
New 3 per Cent. Ann.	92 1	92 1	92 1	92 1	92 1	92 1
New 2 1/2 per Cent. Ann. ....	...	...	...	...	...	...
3 per Cent. Ann. ....	...	...	...	...	...	...
Long Ann. (exp. Jan. 5, 1860) .....	...	2 7-16	2 7-16	...	...	...
Do. 30 years (exp. Oct. 10, 1859) .....	...	...	...	...	...	...
Do. 30 years (exp. Jan. 5, 1860) .....	...	...	...	...	...	...
Do. 30 years (exp. Apr. 5, 1859)	18 1-16	18	...	...	18 1-16	18 1-16
India Stock	223	221	222 1	...	222	...
India Bonds (£1,000) .....	...	4s. dis.	3s. dis.	...	4s. dis.	...
Do. (under £1,000) .....	...	...	...	...	...	...
Exch. Bills (£1,000) Mar.	2s. pm.	2s. pm.	2s. pm.	2s. pm.	par	4s. pm.
June .....	...	...	...	...	...	...
Exch. Bills (£500) Mar. ....	...	2s. pm.	2s. pm.	2s. pm.	...	...
June .....	...	...	...	...	...	...
Exch. Bills (Small) Mar. ....	...	3s. pm.	2s. pm.	2s. pm.	par	1s. pm.
June .....	...	...	...	...	...	...
Exch. Bills Advertised	1s. pm.	par	2s. dis.	1s. pm.	par	6s. dis.
Exch. Bonds, 1859, 3/4 per Cent. ....	...	98 1/2	98 1/2	...	...	...
Exch. Bonds, 1859, 3/4 per Cent. ....	...	99	98 1/2	98 1/2	98 1/2	98 1/2

Insurance Companies.

Equity and Law	5 1/2
English and Scottish Law	4 1/2
Law Fire	4 1/2
Law Life	6 1/2
Law Reversionary Interest	19
Law Union	par
Legal and Commercial	par
Legal and General Life	5
London and Provincial	3
Medical, Legal, and General	par
Solicitors and General	par

Railway Stock.

Railways.	Sat.	Mon.	Tues.	Wed.	Thur.	Fri.
Bristol and Exeter .....	...	89 1/2	...	...	...	90
Caledonian	7 1/2	...	7 1/2	7 1/2	7 1/2	7 1/2
Chester and Holyhead .....	...	...	36	36 1/2	...	36 1/2
East Anglian .....	...	...	...	...	18 1/2	...
Eastern Union A Stock .....	...	...	...	...	...	...
East Lancashire .....	...	...	97 1/2	...	97 1/2	...
Edinburgh and Glasgow	60	...	...	...	...	...
Edin. Perth. & Dundee	33 1/2	...	...	...	33 1/2	...
Glasgow & South Western .....	...	...	...	...	...	...
Great Northern	97 1/2	...	97 1/2	97 1/2	97 1/2	97 1/2
Gr. South & West. (Ire.) .....	...	...	...	...	103 1/2	...
Great Western	65 1/2	65 1/2	65 1/2	64 1/2	64 1/2	64 1/2
Lancashire & Yorkshire	100	101 1/2	100 1/2	100 1/2	100 1/2	100 1/2
Lon., Brighton, & S. Coast	111 1/2	111 1/2	111 1/2	111 1/2	111 1/2	111 1/2
London & North Western	104 1/2	104 1/2	104 1/2	104 1/2	104 1/2	104 1/2
London and S. Western	99	99 1/2	99 1/2	99 1/2	99 1/2	100
Man., Shef., and Lincoln	42 1/2	42 1/2	43 1/2	42 1/2	42 1/2	42 1/2
Midland	83 1/2	83 1/2	83 1/2	83 1/2	83 1/2	83 1/2
Norfolk	63	...	62 1/2	...	...	...
North British	43 1/2	43 1/2	43 1/2	43 1/2	43 1/2	43 1/2
North Eastern (Berwick)	87 1/2	88 1/2	88 1/2	88 1/2	88 1/2	89 1/2
North London .....	...	...	...	...	...	...
Oxford, Worc. & Wolv. ....	...	...	30 1/2	31	30 1/2	...
Scottish Central	105	...	...	...	...	...
Scot. N.E. Aberdeen Stock	25 1/2	...	...	...	...	25
Shropshire Union	49 1/2	...	...	...	...	50
South-Eastern .....	...	74 1/2	74 1/2	...	...	...
South-Wales .....	...	88	...	87 1/2	...	...

London Gazettes.

MEMBER OF PARLIAMENT.

FRIDAY, June 5, 1857.

Borough of Reading.—Henry Singer Keating, Esq., her Majesty's Solicitor-General.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.

TUESDAY, June 2, 1857.

FEAR, EZEKIEL EVANS, Sherborne, Dorset.—May 9.

FRIDAY, June 5, 1857.

WATTS, EDWARD, Gravesend, Kent.—May 18.

COMMISSIONERS TO TAKE ACKNOWLEDGMENTS OF MARRIED WOMEN.

TUESDAY, June 2, 1857.

ABSCROFT, WILLIAM, Oldham, Lancashire.—May 28.

CORSE, GEORGE SANDFORD, Shrewsbury.—May 28.

DELMAR, JAMES FREDERICK, Stratton, Cornwall.—May 26.

FEAR, EZEKIEL EVANS, Sherborne, Dorset.—May 26.

HAYNES, ARTHUR, Leamington Priory, Warwickshire.—May 29.

SELEY, FRANCIS THOMAS, Spalding, Lincolnshire.—May 28.

THOMSON, WILLIAM HENRY, Birmingham.—May 28.

TWEED, FREDERICK WILLIAM, Horncastle, Lincolnshire.—May 28.

WARD, JOHN, New Elvet, Durham.—May 26.

WEALL, ROBERT, Chesterfield, Derbyshire.—May 29.

FRIDAY, June 5, 1857.

BRITAIN, WILLIAM, Bristol; for the city of Bristol and county of

Somerset.—May 22.

COCKERELL, WILLIAM, Cambridge; for the county of Cambridge.—May 22.

COOK, ROBERT, Bath; for the city of Bath and county of Somerset.—

May 22.

EVANS, EDWARD, Chester; for the city and county of Chester.—May 26.

GROVER, CHARLES EHRET, Hemel Hempstead, Herts; for the county of

Herts.—May 28.

Bankrupts.

TUESDAY, June 2, 1857.

BETTS, JOHN, Grocer, 16 West-st., Bristol. June 16 and July 20, at 11;

Bristol. Com. Hill. Off. Ass. Miller. Sol. Heaven, Bristol. Pet. May 29.

BUDDEN, CHARLES, Tailor, Basingstoke, Southampton. June 15, at 2,

and July 22, at 11; Basinghall-st. Com. Goulburn. Off. Ass. Nicholson.

Sols. Johnson, Weatherall, & Sons, Temple; or Lamb, Brooks, Sons, &

Challis, Basingstoke. Pet. May 30.

BUGGINS, JOHN JOSEPH, Silver Plater, Birmingham (trading there with

Joseph Wilson). June 15 and July 6, at 10; Birmingham. Com.

Balguy. Off. Ass. Whitmore. Sol. Harding, Birmingham. Pet. May 29.

CHADWICK, BENJAMIN, Chronometer and Watchmaker, Liverpool.

June 11 and July 3, at 11; Liverpool. Com. Stevenson. Off. Ass.

Turner. Sols. Evans & Son, Liverpool. Pet. May 29.

EVANS, JOHN, Bleacher, Spring Vale Works, Whitefield, Lancashire.

June 18 and July 9, at 12; Manchester. Off. Ass. Herniman. Sol.

Partington, Town-hall-bldgs., Manchester. Pet. May 27.

GLIMSTER, GEORGE WILLIAM, 1 Spring-garden-pl., Stepney, & WILLIAM

JOSEPH GLIMSTER, 7 Green-st., Stepney, Grocers. June 11, at 11, and

July 9, at 1; Basinghall-st. Com. Evans. Off. Ass. Bell. Sol. Dewy,

64 Mark-la. Pet. May 29.

GREENWOOD, THOMAS, & SAMUEL KING, Builders, Cannon-st. and St.

Aubyn-st., Devonport. June 22 and Aug. 3, at 1; Plymouth. Com.

Bere. Off. Ass. Hirtzell. Sols. Edmonds & Sons, Plymouth; or Stog-

den, Exeter. Pet. May 25.

HALE, GEORGE MATTHEW, Cardiff, Glamorganshire, formerly of St.

Arvans, Monmouthshire, Victualler. June 15 and July 13, at 11;

Bristol. Com. Hill. Off. Ass. Acraman. Sol. King, Bristol. Pet.

May 28.

LOWDEN, JOHN, & WILLIAM LOWDEN, Shipowners, 13 Coleshill-st.,

Pimlico. June 15, at 1.30, and July 20, at 12; Basinghall-st. Com.

Goulburn. Off. Ass. Nicholson. Sols. Meredith, Lucas, & Thornton, 8

New-sq., Lincoln's-inn; or Harris, Bristol. Pet. May 16.

MYERS, LEWIS HENRY. Second meeting, July 9 (instead of July 6, as

advertised in Gazette of May 29).

NOBLE, ROBERT, Dentist, Whitby, Yorkshire. June 15, at 12, and July

13, at 11; Leeds. Com. Ayton. Off. Ass. Hope. Sols. Anderson,

York; or Blackburn, Leeds. Pet. June 1.

STARLING, GEORGE DURRANT, Grocer, Ormesby, Norfolk. June 16, at

1, and July 14, at 12; Basinghall-st. Com. Holroyd. Off. Ass. Edwards.

Sols. Sola, Turner, & Turner, 68 Aldermanbury; or Miller, Son, & Bugg,

Norwich. Pet. May 19.

WALBURN, RICHARD, Grocer, Howdon, Crook, Durham. June 13 and

July 10, at 11; Royal-arcade, Newcastle-upon-Tyne. Com. Ellison.

Off. Ass. Baker. Sols. Harle, Bush, & Co., 20 Southampton-bldgs.,

Chancery-lane, London; or 2 Butcher-bank, Newcastle-upon-Tyne. Pet.

May 28.

WHIELDON, GEORGE, Jun., Brickmaker, Wyke-house, Wincanton,

Gillingham, Dorset. June 20, at 12, and July 15, at 11; Basinghall-st.

Com. Fomblanque. Off. Ass. Graham. Sol. Colomine, 79 Basinghall-

st. Pet. April 15.

WOODS, JAMES, Tailor, 23 Conduit-st., Hanover-sq. June 11, at 12, and

July 9, at 2; Basinghall-st. Com. Evans. Off. Ass. Bell. Sols. Towne

& Dubois, 27 Broad-st.-bldgs. Pet. May 30.

FRIDAY, June 5, 1857.

GOODERED, JOHN FREDERICK, Wine Merchant, 222 Piccadilly. June

18 and July 17, at 11; Basinghall-st. Com. Fane. Off. Ass. Cannan.

Sol. Lewis, 1 Albany-ct.-yd., Piccadilly. Pet. May 29.

GROTTICK, SAMUEL, Hatter, 186 Blackfriars-rd. June 17, at 1, and

July 15, at 12; Basinghall-st. Com. Fomblanque. Off. Ass. Stansfeld.

Sols. Norton, Son, & Elam, New-st., Bishopsgate. Pet. May 23.

HOGGINS, JAMES (James Hoggins & Son), Auctioneer, 163 Strand, and

Strand-lane. June 19 and July 31, at 1; Basinghall-st. Com. Holroyd.

Off. Ass. Lee. Sol. Stopher. 52 Cheapside. Pet. May 22.

KNOWLESLEY, CHARLES, Draper, 179 Fore-st., Exeter. June 18 and July

16, at 1; Exeter. Com. Bere. Off. Ass. Hirtzell. Sol. Friend, Post-

office Chambers, Exeter. Pet. June 1.

SHAW, JAMES, Grocer, Southover, Lewes, Sussex. June 22, at 11, and

July 20, at 1; Basinghall-st. Com. Goulburn. Off. Ass. Pennell. Sol.

Crowdy, 17 Serjeants-inn, Fleet-st. Pet. May 30.

BANKRUPTCY ANNULLED.

FRIDAY, June 5, 1857.

METRICK, DAVID, Bootmaker, Butte-st., Cardiff, Glamorganshire. June 1.

MEETINGS.

TUESDAY, June 2, 1857.

BAKER, WILLIAM, Clockmaker, 38 and 39 Birchall-st., Birmingham.

June 26, at 11.30; Birmingham. Com. Balguy. Die.

BALFOUR, BUCHANAN, late of St. Mary-axe, Leadenhall-st., now of

Pinner's-hall-ct., Broad-st., Underwriter. June 23, at 12; Basinghall-

st. Com. Evans. Die.

BUNTING, HORATIO, Seedsman, Colchester. June 23, at 11.30; Basing-

hall-st. Com. Fomblanque. Die.

CALLAWAY, BENJAMIN, Builder, Southsea, Southampton. June 23, at

11.30; Basinghall-st. Com. Evans. Die.

CHOAT, JAMES, late of 14 Bishopgate-st., afterwards of 6 Albert-rd.,

Dalston, Tailor. June 23, at 11; Basinghall-st. Com. Evans. Die.

COPLAND, CHARLES, & WILLIAM GEORGE BARNES, Provision Merchants,

Botolph-lane, London; and of Oriental-pl., Southampton. June 25, at

11; Basinghall-st. Com. Goulburn. Die.

DANGERFIELD, JOHN, sen., Builder, Kirtley, otherwise Kirtley, Suffolk.

June 23, at 12; Basinghall-st. Com. Holroyd. Die.

GODDARD, EDMUND, Provision Dealer, 108 London-wall, 3 Old Jewry, 161

Fenchurch-st., and 17 Aldgate. June 28, at 1; Basinghall-st. Com.

Fomblanque. Die.

HOLKER, JOHN, Money Scrivener, Liverpool. June 23, at 11; Liverpool

Com. Ferry. Die.

MARTY, HENRY, Woolen Warehouseman, 170 Bishopgate-st. Without. June 25, at 12.30; Basinghall-st. Com. Goulburn. *Div.*
 MEDWIN, THOMAS CHARLES, & CRESSWELL HALL, Engineers, 92 Blackfriars-rd. June 23, at 1.30; Basinghall-st. Com. Fonblanque. *Div.*
 MONROE, WILLIAM HORACE, Pawnbroker, Boston, Lincolnshire. July 7, at 10.30; Nottingham. *Com. Balguy. Div.*
 OLIVER, ANN, Widow, Grocer, Walsingham, Yorkshire. June 24, at 12; Kingston-upon-Hull. *Com. Ayrton. Div.*
 PARRY, WILLIAM, Tailor, Newtown, Montgomeryshire. June 24, at 11; Liverpool. *Com. Ferry. Div.*
 SPILSBURY, GEORGE, Builder, Wolverhampton, Staffordshire. June 26, at 11.30; Basinghall-st. *Com. Balguy. Div.*
 STRANGE, WILLIAM COPELAND, Bricklayer, Henley-on-Thames, Oxfordshire. June 23, at 12; Basinghall-st. *Com. Fonblanque. (By adj. from March 17) Div.*
 SUCKLING, JOSEPH, Jun., Hop and Provision Dealer, Birmingham. June 26, at 11.30; Birmingham. *Com. Balguy. Div.*
 WARD, BARTHOLOMEW, Stationer, 71 High-st., Southwark, and 37 St. James-pl., New-cross. June 25, at 11.30; Basinghall-st. *Com. Goulburn. Div.*
 WATERSON, JOHN PATRICK, Builder, 3 Alexander-ter., Westbourne-park-rd., Paddington. June 24, at 1; Basinghall-st. *Com. Fonblanque. Div.*

WILLIAMS, WILLIAM, WILLIAM WILLIAMS, Jun., & THOMAS ROBERT WILLIAMS, Bankers, Newport, Monmouthshire. June 25, at 11; Bristol. *Com. Hill. Final Div.*
 WOOD, ALFRED CHARLES, Linendraper, Pershore, Worcestershire. July 3, at 11.30; Birmingham. *Com. Balguy. Div.*
 WRIGHT, GEORGE SLEDGALL, & JOHN WRIGHT, Brewers, Liverpool. June 24, at 11; Liverpool. *Com. Ferry. Div. joint est.*
 YOUNGER, EDWARD, Stationer, Holt, Norfolk. June 23, at 1.30; Basinghall-st. *Com. Fonblanque. Div.*

FRIDAY, June 6, 1857.

BARLOW, JAMES, Paperhanger, Bolton-le-Moors, Lancashire. June 19, at 1; Manchester. *Com. Skirrow. Div.*
 BASSNETT, JAMES, & THOMAS BASSNETT, Opticians, Liverpool. June 29, at 11; Liverpool. *Com. Ferry. Div. sep. est. of J. Bassnett; and June 30, at 11, Div. joint est.*
 BATLEY, FRANCIS LYDDE, & SAMUEL MILNER BARTON, Smallware Manufacturers, Manchester. June 19, at 12; Manchester. *Com. Skirrow. Fur. Div.*
 FENNER, JOHN PREBBLE, Leather Factor, New Leather Warehouses, Surrey, and Bishopgate-st. June 26, at 12; Basinghall-st. *Com. Evans. Div.*
 GARNETT, HENRY, Stationer, 34 and 35 Strand-st., Dover. June 26, at 11; Basinghall-st. *Com. Holroyd. Div.*
 GIBSON, WILLIAM, Grocer, Spenny-moor, Durham. June 17, at 11.30; Royal-arcade, Newcastle-upon-Tyne. *Com. Ellison. (By adj. from May 26) Last Ex.*
 GREEN, LEWIS, Grocer, Cranbrook, Kent. June 30, at 12; Basinghall-st. *Com. Holroyd. Div.*
 HARGREAVES, CHARLES, & MICHAEL HARGREAVES, Whitesmiths, Bradford, Yorkshire. June 26, at 11; Leeds. *Com. West. Div.*
 HUGHESDON, JOSEPH, & ALEXANDER MACKAY (Hughesdon, Brothers), Merchants, Chundernagore, East Indies. June 26, at 2; Basinghall-st. *Com. Fane. Div.*
 HUMPHREYS, GEORGE JOHN, Underwriter, Crown-st., Old Broad-st. June 19, at 2, Basinghall-st. *Com. Fane. Last Ex.; and June 26, at 2, Div.*
 LOWE, JOHN, Slate Merchant, Salford, Lancashire. June 26, at 12; Manchester. *Com. Skirrow. Div.*
 PARSONS, ISAAC, Printer, High-st., Rye, Sussex. June 26, at 12; Basinghall-st. *Com. Holroyd. Div.*
 PETO, JOHN, & JOHN BRYAN, Atmry Contractors, 8 and 9 Dacre-st., Westminster, and of Liverpool, and Willow-walk, Bermondsey. June 26, at 12; Basinghall-st. *Com. Fane. Div.*
 REDMAN, ROBERT, & EDWARD REDMAN, Wharfingers, 36 Mark-la. June 29, at 12; Basinghall-st. *Com. Goulburn. Div.*
 RENNINGSON, FRANK (F. Renningson & Co.), Merchant Warehouseman, 21 Milk-st., Cheapside; also School Master, 8 Matson-ter., Kingland-rd. June 16, at 3; Basinghall-st. *Com. Fonblanque. (By adj. from June 2) Last Ex.*
 ROCHEFORT, LOUIS, Importer of Foreign Goods, 17 Broad-st.-bldgs. June 16, at 12; Basinghall-st. *Com. Fonblanque. (By adj. from Feb. 11) Last Ex.*
 RODGERS, EDWIN (E. & J. F. Rodgers), Grocer, Walsall, Staffordshire. June 15, at 10.30; Birmingham. *Com. Balguy. Choice of Ass.*
 RUSSELL, THOMAS, Master of Arts and Schoolmaster, late of Osney House, Oxford, now of 17 Peter's-hill, Doctors'-commons. June 16, at 11; Basinghall-st. *(By adj. from June 2) Last Ex.*
 SMITH, EDWARD, Baker, Isleworth, Middlesex. June 26, at 12; Basinghall-st. *Com. Holroyd. Div.*

CERTIFICATES.

To be ALLOWED, unless Notice be given, and Cause shown on Day of Meeting.

TUESDAY, June 2, 1857.

ADAMS, WILLIAM, Miller, Huntingdon. June 23, at 1; Basinghall-st.
 BRALE, FREDERICK GEORGE, Bill Broker, Gloucester. June 30, at 11; Bristol.
 CAULTON, GEORGE, Common Brewer, Radford, Notts. July 7, at 10.30; Nottingham.
 GRIFFITHS, THOMAS HENRY, Coal Dealer, Lowesmoor, Worcester. July 3, at 10; Birmingham.
 GUT, PHILEMON, Builder, 23 St. James's-rd., Holloway. June 25, at 12.30; Basinghall-st.
 HALL, CHRISTOPHER (C. Hall & Co.), East India Merchant, 3 Sun-ct., Cornhill. June 25, at 12; Basinghall-st.
 HIGGINS, CHARLES, Brewer, Bridge-st., Salisbury. June 23, at 11; Basinghall-st.
 HURDY, JOSEPH, Miller, Nottingham. July 7, at 10.30; Nottingham.
 LONG, JAMES, Rag Merchant, Kent-st., Portsea, Southampton. June 26, at 11; Basinghall-st.
 LOW, MAXIMILIEN, Merchant, 40 Broad-st.-bldgs. June 19 (and not 18th, as advertised in *Gazette* of May 29), at 11; Basinghall-st.
 TREVECHICK, WILLIAM, Timber Merchant, Lincoln. June 24, at 12; Kingston-upon-Hull.

FRIDAY, June 5.

CLARKE, ELIZABETH, Potter, Newport, Monmouthshire. June 30, at 11; Bristol.
 DALTON, LEONARD, Stone Merchant, Canal-bridge, Old Kent-rd. June 26, at 12; Basinghall-st.
 EDMERSON, JOHN, Licensed Victualler, East India Coffee House, 295 High-st., Poplar, and the Green-gate, Plaistow, Essex. June 26, at 1.30; Basinghall-st.
 HANSON, JOHN, & JAMES WALKER, Coach Builders, Sheffield. June 27, at 10; Sheffield.
 MOSLIN, THOMAS, Carpenter, 8 Cobourg-pl., Old Kent-rd. June 26, at 12; Basinghall-st.
 RICHARDS, THOMAS, Draper, Aberystwith, Cardiganshire. [July 7, at 11; Bristol.
 SMITH, JOSEPH, Dealer in Iron, 28 and 29 Broad-st., Lambeth. June 27, at 11.30; Basinghall-st.

To be DELIVERED, unless APPEAL be duly entered.

TUESDAY, June 2, 1857.

COWELL, GEORGE, Innkeeper, Claypath, Durham. March 13, 3rd class; subject to suspension till May 13 last.
 CREAMY, LIONEL, & JOHN JACKSON CREAMY, Butchers, Turnham Green. May 27, 3rd class.
 CURTIS, WILLIAM TURNING, Merchant, 17 Gt. St. Helena. May 20, 2nd class.
 DONALD, JAMES, & JOHN LOCKHART DONALD, Watchmakers, Newcastle-upon-Tyne. May 28, 3rd class, to J. L. Donald, subject to suspension until Aug. 31.
 FOSCOLO, FREDERICK GEORGE (P. G. Foscolo & Co.), Corn Merchant, 3 Duxford-st., Mincing-la. May 28, 2nd class.
 GLOVER, JAMES, Dealer in Wines and Spirits, Swan, Thomas Ditton, and late of Blue Posts Tavern, Haymarket. May 20, 3rd class.
 KENNARD, JOHN, Ironmonger, 32 Little Queen-st., Holborn. May 26, 2nd class.
 LANE, THOMAS, Japanner, Birmingham, now residing at Wilton Lodge, New-rd., Hammersmith. May 28, 3rd class.
 MEDWIN, THOMAS CHARLES, & CRESSWELL HALL, Engineers, Blackfriars-rd. May 27, 2nd class to each.
 SMITH, JAMES, Marine Store Dealer, Walsall, Staffordshire. May 28, 2nd class.
 SMITH, THOMAS, Licensed Victualler, Nottingham. May 26, 2nd class.
 THOMAS, JOHN, Timber Merchant, Lilleshall, Salop. May 28, 3rd class.
 VANDERPANT, HENRY CRESSY, Dentist, 16 Maddox-st., Bond-st. May 25, 2nd class.
 WOODHOUSE, SAMUEL BENTLEY, Dealer in General Hosiery, Leicester. May 26, 3rd class.

FRIDAY, June 5, 1857.

HUDSON, THOMAS, Shipbroker, Liverpool. May 25, 2nd class.
 TAYLOR, JAMES (ECIES, Nuttall, & Co.), Cottonspinner, Bottoms Hall Mill, Tooting Lower End, Lancashire. May 29, 3rd class.
 WHITE, WILLIAM JOSEPH, & LACHY BATHURST, Drapers, Regent-st. May 29, 1st class.

DIVIDENDS.

TUESDAY, June 2, 1857.

ARLIS, JOHN, Carrier, Plymouth. First, 2s. 6d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 CARPENTER, RICHARD, Licensed Victualler, Museum-st., Bloomsbury. First, 5s. 1d. *Lee*, 20 Aldermanbury; next two Wednesdays, 11 and 2.
 COOPER, EDWARD DEACON, Grocer, Bawdsey, Woodbridge, Suffolk. First, 1d. *Whitmore*, 2 Basinghall-st.; any Wednesday, 11 and 3.
 COOPER, REUBEN, Grocer, Oldham. Second, 2d.; First, 3s. on new proofs. *Ford*, 7 Charlotte-st., Manchester; any Tuesday, 11 and 1.
 DAVIES, FREDERICK READ, Auctioneer, 42 Union-st., Plymouth. First, 3s. 3d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 FAWCETT, WILLIAM, Carpet Manufacturer, Kidderminster. First, 1s. 1d. *Harris*, Middle Pavement, Nottingham; any Thursday, 11 and 3.
 GODDARD, EDMUND, Provision Dealer, 103 London-wall. First, 6s. 8d. *Stansfeld*, 10 Basinghall-st.; any Thursday, 11 and 2.
 GOSLING, GEORGE, Builder, Sidmouth, Devon. First, 2s. 8d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 GREEN, JAMES, Coal Merchant, Long Buckby, Northamptonshire. First, 3s. *Stansfeld*, 10 Basinghall-st.; any Thursday, 11 and 2.
 GRIEBLE, RICHARD, Carpenter, Pilton, Devon. First, 5s. 1d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 HARVEY, JOHN LAWRENCE, Draper, 50 Chichester-pl., King's-cross. First, 2s. 11d. *Stansfeld*, 10 Basinghall-st.; any Thursday, 11 and 2.
 HEATHFIELD, WILLIAM EAMES, & WILLIAM ARTHUR, Manufacturing Chemists, Princes-sq., Finsbury. First, 4s. *Edwards*, 1 Sambrook-ct., Basinghall-st.; next three Wednesdays, 11 and 2.
 JEWITT, THEODORE, & EDMUND MICKLEWOOD, Stationers and Booksellers, George-st., Plymouth. Fur. Div. 2d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 JONES, JOHN. Second, 3d. *Morgan*, 10 Cook-st., Liverpool; any Wednesday, 11 and 2.
 KILLAND, PHILLIP, Miller, Bampton, Devon. First, 1s. 10d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 LAYFORD, WILLIAM, Oil-crusher, Liverpool. First, 2s. 4d. *Bird*, 9 South Castle-st., Liverpool; any Monday, 11 and 2.
 PARKER, ALEXANDER SMITH, Draper, 9 Buckland-st., Plymouth. First, 2s. 6d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 PEARSON, LEVI, Wholesale Grocer, Rochdale. First, 4s. 6d. *Pott*, 7 Charlotte-st., Manchester; any Tuesday, 11 and 1.
 PIERSON, SAMUEL, Ironmonger, 1 Sun-st., Bishopgate-st. Without. Second, 4d. *Edwards*, 1 Sambrook-ct., Basinghall-st.; next three Wednesdays, 11 and 2.
 RENNINGSON, FRANK, Merchant, 21 Milk-st., Cheapside; also Schoolmaster, 8 Matson-ter., Kingland-rd. First, 2s. 6d. *Stansfeld*, 10 Basinghall-st.; any Thursday, 11 and 2.
 SHEERATT, WILLIAM. Second, 2s. 2d. *Morgan*, 10 Cook-st., Liverpool; June 3, 11 and 2.
 SLOCOMBE, RICHARD, Farmer, Kentsbury, Devon. First, 1s. 2d. *Hirtzel*, Queen-st., Exeter; any Tuesday or Friday, 11 and 2.
 WHITTAKER, JOHN, Cotton Manufacturer, Bridge End, Newchurch, Rosendale. First, 9d. *Pott*, 7 Charlotte-st., Manchester; any Tuesday, 11 and 1.
 WILSON, JAMES, Tailor, 17 Princes-st., Hanover-sq. Second, 1s. 0d. *Stansfeld*, 10 Basinghall-st.; any Thursday, 11 and 2.

WOOLLETT, WILLIAM HENRY, Ship and Insurance Agent, Lime-st.-sq. First, 8s. 9d. sep. est. *Edwards*, 1 Sambrook-st., Basinghall-st.; next three Wednesdays, 11 and 2.

FRIDAY, June 5, 1857.

BARDGETT, WILLIAM, Merchant, 53 Old Broad-st. (trading with Lesley Alexander). Third, 8 1/2d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

BUTT, THOMAS, Ironmonger, Littlehampton, Sussex. First, 6s. *Cannan*, 18 Aldermanbury; any Monday, 11 and 3.

DAKFOED, SAMUEL, Scrivener, Battersea-fields, and George-yard, Lombard-st. Second, 2s. 6d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

DAWSON, JOHN RICHARD, Hotel Keeper, West Cowes, Isle of Wight. First, 1s. 9d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

HALL, JOHN PARKER, Jun. Second, 1 1/2d. *Morgan*, 10 Cook-st., Liverpool; any Wednesday, 11 and 2.

HARROLD, ALFRED HENRY, Druggist, Frome. Div. 8s. 3d. *Miller*, 19 Saint Augustine's-parade, Bristol; any Wednesday, 11 and 1.

PERRIN, FRANCIS, Dealer in Foreign Woods, Cleveland-st., Fitzroy-sq. First, 5s. 6d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

REDMAN, EDWARD, Wharfinger, 36 Mark-la. (trading with Robert Redman). First and final, 20s. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

RILEY, WHITAKER, Calico Printer, Manchester. First, 5s. 3 1/2d. *Fraser*, 45 George-st., Manchester; any Tuesday, 11 and 1.

SAMUEL, LYON, Jeweller, Bury-st., St. Mary-axe (First Flat). Third, 1 1/2d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

SKINNER, WILLIAM, Outfitter, Bristol. Div. 2s. 9d. *Miller*, 19 St. Augustine's-parade, Bristol; any Wednesday, 11 and 1.

TAPLING, GEORGE, Carpet Warehouseman, 110 Wood-st. Third, 1d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 1.

TINCEY, WILLIAM, Warehouseman, 194 Tottenham-ct.-rd. First, 1s. 10d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

WOODS, SAMUEL, Builder, Weybridge. First, 8d. *Pennell*, 3 Guildhall-chambers, Basinghall-st.; any Tuesday, 11 and 2.

Professional Partnerships Dissolved.

FRIDAY, June 5, 1857.

PONTIFEX, JOHN, & NATHANIEL CRANCH MOGINIE, 5 St. Andrew's-ct., Holborn; by mutual consent. April 9.

SEWELL, ISAAC, JOHN FOX, & HENRY SEWELL, Attorneys and Solicitors, Gresham House, Old Broad-street; by mutual consent, as regards H. Sewell. May 30.

Assignments for Benefit of Creditors.

TUESDAY, June 3, 1857.

BALEWELL, JOHN, Boot and Shoe Maker, Exeter. May 11. *Trustee*, H. Branscombe, Leather Merchant, Bristol. *Sol.* Griffiths Trenchery, 1 Nicholas-st., Bristol.

BROWN, JAMES, Stock and Share Broker, Crown-ct., Threadneedle-st., and Forest-hill, Sydenham. May 2. *Trustee*, E. Howat, Merchant, Dummies; C. Lloyd, Esq., Euston-sq. *Sol.* Clarke, 14 Serjeants'-inn, Fleet-st.

FAWCETT, JOHN, Chemist and Druggist, Gateshead, Durham. May 6. *Trustee*, J. Ismay, Chemist and Druggist, Newcastle-upon-Tyne (Gaglish & Ismay); G. Dodds, Drug Grinder, Newcastle-upon-Tyne. *Sol.* Seafie, Royal-arcade, Newcastle-upon-Tyne.

HEDGECOCK, HENRY, Dealer in Lamps, 32 New-rd., Brighton. May 26. *Trustee*, G. Hall, Upholsterer, Brighton; E. S. Harding, Upholsterer, Brighton. *Sols.* Woods & Dempster, 64 Ship-st., Brighton.

HISSEY, THOMAS, Clothier, Cirencester, Gloucestershire. May 4. *Trustee*, R. Garland, Warehouseman, Wood-st.; T. Ford, Warehouseman, King-st. *Sol.* Drake, 38 Walbrook.

MASON, JOHN, Builder, Exeter. May 19. *Trustee*, J. Follett, Timber Merchant, Exeter; W. Tompson, Accountant, Exeter. *Sol.* Stogdon, Exeter.

MILNES, ISAAC, & JOHN TAYLOR, Worsted Spinners, Bradford, Yorkshire. *Trustee*, T. Buck, Gent., Bradford; J. Turner, Commission Agent, Bradford; H. Brown, Top Manufacturer, Halifax. *Sols.* Wavell, Philbrick, & Foster, 14 George-st., Halifax.

OSTON, DAVID, Grocer, Kingston-upon-Hull. May 18. *Trustee*, C. Townsend, Wholesale Tea Dealer, Derby; J. Mason, Wholesale Tea Dealer, Kingston-upon-Hull. *Sol.* Champney, Jun., 6 Parliament-st., Kingston-upon-Hull.

SCOTT, JOHN, Tallow, Grainger-st., Newcastle-upon-Tyne. May 25. *Trustee*, A. McCree, Merchant; S. H. Farrer, Woollen Draper, both of Newcastle-upon-Tyne. *Sol.* Armstrong, 60 Dean-st., Newcastle-upon-Tyne.

WRIGHT, JAMES, Tallyman, Plymouth. May 11. *Trustee*, S. Randle, Warehouseman, Plymouth. *Sols.* Ashurst, Son, & Morris, 6 Old Jewry

FRIDAY, June 5, 1857.

ASHDOWN, WILLIAM, & EDWARD FREEMAN FORWOOD, Stationers, 24 Burgate-st. and 73 Northgate-st., Canterbury. May 7. *Trustee*, J. Barry, Wholesale Stationer, Queenhithe, London. *Sols.* Tucker, Greville, & Tucker, 28 St. Swin's-ls.

BAILEY, BENJAMIN, Grocer and Provision Dealer, Bilston. May 30. *Trustee*, T. S. Hatton, W. Hatton, and W. H. Caddick, Millers, Wednesbury. *Sol.* Bayley, Wednesbury, Staffordshire.

BARNES, STEPHEN, Tailor, Birmingham. May 8. *Trustee*, T. Jones, Woollendrapier, Vigo-st., Middlesex; G. T. Rice, Woollendrapier, Marylebone-st., Middlesex. *Sol.* Richards, 16 Warwick-st., Regent-st.

FLAGG, HENRY, Victualler, 7 New Compton-st., Middlesex, and WILLIAM GEORGE ROSIE (Flag & Rosie), Tailor, 38 Holborn-hill. May 28. *Trustee*, J. T. Powell, Woollen Warehouseman, 13 Newgate-st.; T. Russell, 56, Martin's-ls.; W. Daniels, Woollen Warehouseman, King-st., Cheap-side. *Sol.* Brook 1 New-lin, Strand.

HARKNESS, WILLIAM, Shipbuilder, Monkwearmouth-shore, Durham. May 9. *Trustee*, J. Spence, Timber Merchant, Sunderland; W. Simson, Timber Merchant, Sunderland; W. Banks, Timber Merchant, York. *Sols.* A. J. & W. Moore, Sunderland.

MANTAN, WILLIAM, Grocer, Warwick. May 29. *Trustee*, J. Kemp, W. Taylor, G. H. Cowley, Grocers, all of Warwick; and I. Ramsford, Grocer, Coventry. *Sol.* Snape, High-st., Warwick.

PAGE, EDWARD, Cornchandler, Ware, Herts. May 23. *Trustee*, W.

Hudson, Maltster, Ware; F. Parrott, Butcher, Ware. *Sol.* Sworder, Hertford.

POLLETT, HENRY, Wine Merchant, Broxbourne, Herts. May 22. *Trustee*, C. Chiffins, Auctioneer, Hoddeston. *Sol.* Sworder, Hertford.

WRIGHT, ROBERT, Shoemaker, Leeds. May 27. *Trustee*, S. Watson, Currier, Leeds; J. Armistead, Cloth Merchant, Leeds. *Sols.* Butler & Smith, 4 Park-row, Leeds.

TOMLINSON, PETER, Draper, Gee-cross, Cheshire. May 19. *Trustee*, M. N. Welch, Provision Merchant, Manchester; S. S. Bowers, Corn Factor, Manchester. Indenture lies at offices of Caster & Co., Accountants, 14 St. Ann's-sq., Manchester.

Creditors under Estates in Chancery.

TUESDAY, June 2, 1857.

COLLINSON, MARY ANN (who died in Aug., 1849), Widow, Putney, Surrey. Creditors to come in and prove their debts on or before June 15, at V. C. Wood's Chambers.

CROFT, MARGARET (who died in Nov., 1854), Widow, Liverpool. Creditors to come in and prove their debts or claims on or before June 29, at office of Registrar for Liverpool District, 1 North John-st., Liverpool.

ILBEY, GEORGE (who died in May, 1852), Porter, Reading, Berks. Creditors to come in and prove their debts on or before June 19, at V. C. Wood's Chambers.

LANCASTER, FREDERICK (who died in July, 1856), Builder, 144 High-st., Wapping. Creditors to come in and prove their debts on or before June 22, at Master of the Rolls' Chambers.

M'WHINNEY, THOMAS (who died in Aug., 1852), Merchant, some time of Kingston, Jamaica, late of Liverpool. Creditors to come in and prove their debts at Master of the Rolls' Chambers—creditors residing in England, on or before June 25; and creditors residing elsewhere, on or before Oct. 28.

PARROTT, ELIZABETH (who died on Oct. 16, 1844), Widow, Richmond, Surrey. Creditors to come in and prove their debts or claims on or before June 22, at Master of the Rolls' Chambers.

SHAW, THOMAS (who died in Dec., 1856), Boiler Maker, Burnley, Lancashire. Creditors to come in and prove their debts on or before June 25, at V. C. Kindersley's Chambers.

FRIDAY, June 5, 1857.

CAMPBELL, THOMAS CARINGTON (a person of unsound mind), Solicitor, late of 14 Earl's-ter, Kensington, and 35 Lincoln's-inn-fields, and formerly of 21 Essex-ct., Strand. Creditors to come in and prove their debts on or before July 1, before the Masters in Lunacy, at 45 Lincoln's-inn-fields.

COLSHED, PHILIP (who died in Dec., 1819), Victualler, Liverpool. Creditors to come in and prove their debts or claims on or before June 30, at District Registrar's Office, North John-st., Liverpool.

EASTWOOD, EDWARD (who died in Sept., 1849), Gent., formerly of South-st., Toxteth-pk., Liverpool, and afterwards of Upper Parliament-st., Liverpool. Creditors to come in and prove their debts or claims on or before June 30, at District Registrar's Office, 1 North John-st., Liverpool.

FENN, WILLIAM HUGH (who died in March, 1857), Meeklenburgh-sq. Creditors to come in and prove their debts on or before June 25, at V. C. Stuart's Chambers.

HUTTON, THOMAS (who died in Nov., 1856), Wine Merchant, 4 Dalby-ter, Islington. Creditors to come in and prove their debts or claims on or before June 17, at V. C. Stuart's Chambers.

OULD, JOSEPH (who died in March, 1857), Oil and Colourman, Henry-st., Hampstead-rd., St. Pancras. Creditors to come in and prove their debts on or before July 10, at V. C. Kindersley's Chambers.

WILLIAMS, THOMAS (who died in Nov., 1856), Licensed Victualler, Sparling-st., Liverpool. Creditors to come in and prove their debts or claims on or before June 30, at the District Registrar's Office, 1 North John-st., Liverpool.

Winding-up of Joint Stock Companies.

TUESDAY, June 2, 1857.

COSMOPOLITAN LIFE ASSURANCE COMPANY.—The Master of the Rolls purposes, on June 8, at noon, at his chambers, to make a call on all the contributories for £1 per share.

HULL AND LONDON LIFE ASSURANCE COMPANY.—The Master of the Rolls will proceed, on June 19, at 12, at his chambers, to settle the list of contributories of this company.

NEW DELAWARE SLATE QUARRY COMPANY.—A petition for the winding-up of this company was, on May 22, presented by John Turner Pearce and Frederick Andrew Payne, which will be heard before V. C. Kindersley, on June 5. Bell, Steward, & Lloyd, 49 Lincoln's-inn-fields, Agents for Gurney and Lethbridge Coward, Launceston, Cornwall, Sols. for petitioners.

FRIDAY, June 5, 1857.

BOSWORTH MINING COMPANY.—The Master of the Rolls has appointed Robert Palmer Harding, 5 Serle-st., Lincoln's-inn, to be the Official Manager of this company.

Scotch Sequestrations.

TUESDAY, June 2, 1857.

RAISTON, JAMES, Ironmonger, Cowcaddens-st., Glasgow. June 5, at 2, Faculty-hall, St. George's-pl., Glasgow. *Seq.* May 28.

ROBERTSON, JAMES CURLE, & JOHN CURLE ROBERTSON, Tea Merchants, Glasgow. June 8, at 1, Faculty-hall, St. George's-pl., Glasgow. *Seq.* May 28.

SHAW, ANGUS, Glass and China Merchant, Cowcaddens, Glasgow. June 5, at 12, Globe Hotel, George-sq., Glasgow. *Seq.* May 27.

FRIDAY, June 5, 1857.

BROWN, JOHN, Merchant, Buchanan-st., Glasgow. June 11, at 12, Faculty-hall, St. George's-pl., Glasgow. *Seq.* June 1.

M'CORKINDALE, WILLIAM, Wine Merchant, Rothsay, and a partner of firm of Robertson & Co., Tea and Coffee Merchants, Manchester. June 13, at 1, Bute Arms Hotel, Rothsay. *Seq.* May 28.

MILLER, GEORGE, Woollen Manufacturer, Boll Mill, Alva. June 9, at 12, Royal Hotel, Stirling. *Seq.* May 29.

SKENE, PETER, Architect, Crief. June 13, at 12, Drummond Arms Hotel, Crief. *Seq.* June 2.

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